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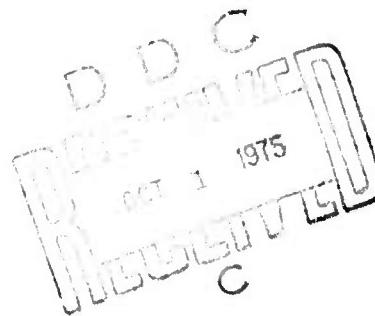
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Negotiating with the North Vietnamese: A Military Perspective

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Final report 6 June 1975



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1 OCT 1975

A thesis presented to the faculty of the U.S. Army Command and General Staff
College, Fort Leavenworth, Kansas 66027

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SECURITY CLASSIFICATION OF THIS PAGE (When Data Entered)

REPORT DOCUMENTATION PAGE			READ INSTRUCTIONS BEFORE COMPLETING FORM
1. REPORT NUMBER	2. GOVT ACCESSION NO.	3. RECIPIENT'S CATALOG NUMBER	
4. TITLE (and Subtitle) Negotiating with the North Vietnamese: A Military Perspective		5. TYPE OF REPORT & PERIOD COVERED Final report 6 Jun 75	
7. AUTHOR(s) Thomas, John T., MAJ, USA		6. PERFORMING ORG. REPORT NUMBER	
9. PERFORMING ORGANIZATION NAME AND ADDRESS Student at the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas 66027		8. CONTRACT OR GRANT NUMBER(s)	
11. CONTROLLING OFFICE NAME AND ADDRESS US Army Command and General Staff College ATTN: ATSW-DD Fort Leavenworth, Kansas 66027		10. PROGRAM ELEMENT, PROJECT, TASK AREA & WORK UNIT NUMBERS	
14. MONITORING AGENCY NAME & ADDRESS (if different from Controlling Office)		12. REPORT DATE 6 Jun 75	13. NUMBER OF PAGES 128
		15. SECURITY CLASS. (of this report) Unclassified	
		15e. DECLASSIFICATION/DOWNGRADING SCHEDULE	
16. DISTRIBUTION STATEMENT (of this Report) Distribution limited to U.S. Government agencies only: Proprietary Information. Other requests for this document must be referred to U.S. Army Command and General Staff College, Fort Leavenworth, Kansas 66027.			
17. DISTRIBUTION STATEMENT (of the abstract entered in Block 20, if different from Report)			
18. SUPPLEMENTARY NOTES Master of Military Art and Science (MMAS) Thesis prepared at CGSC in partial fulfillment of the Masters Program requirements, U.S. Army Command and General Staff College, Fort Leavenworth, Kansas 66027			
19. KEY WORDS (Continue on reverse side if necessary and identify by block number)			
20. ABSTRACT (Continue on reverse side if necessary and identify by block number) See reverse.			

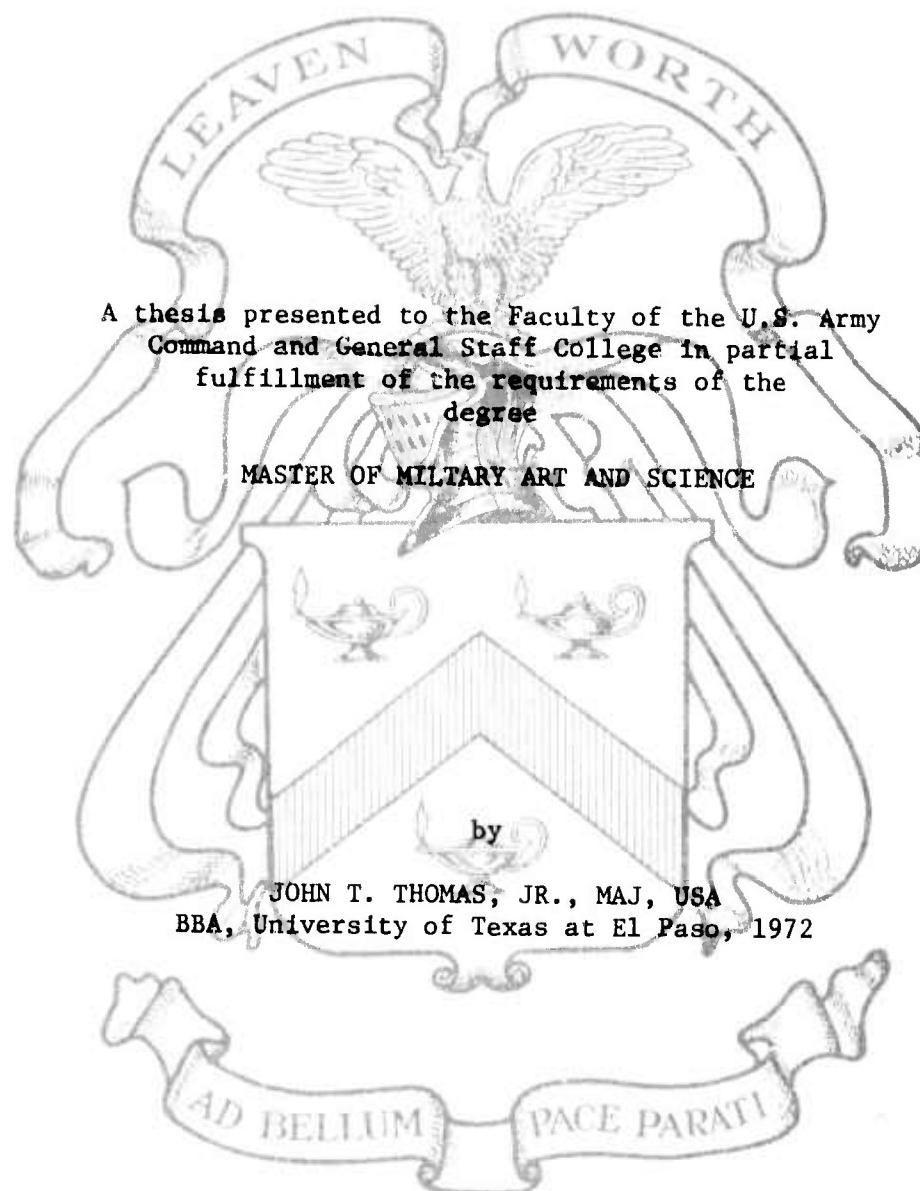
This study describes the various activities of the Four Party Joint Military Team (FPJMT) and analyzes the negotiations to determine the negotiating tactics and strategy used by the US and DRV negotiators. The results achieved by the US Delegation are noted. Based on the evidence available, a conclusion is made that the DRV Delegation was relatively unsuccessful in achieving their apparent objectives. A suggestion is made, however, that more information is necessary before the true success or failure of the DRV Delegation can be accurately measured.

A comparison is made of the tactics used by the US Delegation with some suggested tactics developed by Gerald L. Steibel who is a noted author on the matter of negotiating with Communists.

The thesis concludes with an observation that the US Delegation was unable to fully accomplish its mission primarily because continued US support of the RVN Government was of higher priority than recovering America's dead and missing.

NEGOTIATING WITH THE NORTH VIETNAMESE

A MILITARY PERSPECTIVE



Fort Leavenworth, Kansas
1975

ABSTRACT

The Four Party Joint Military Team (FPJMT) was established two months after the signing of the Paris Agreement in January 1973. The purpose of the FPJMT was to negotiate the implementation of Article 8(b) of the Agreement which called for repatriation of the remains of the dead and an exchange of information concerning the missing in action. Each of the governments signatory to the Paris Agreement was represented on the Team: the United States, the Republic of Vietnam (RVN), the Democratic Republic of Vietnam (DRV) and the Provisional Revolutionary Government of the Republic of South Vietnam (PRG). After almost a year and a half, the negotiations ended when the DRV and PRG announced their decision to permanently cease their participation at the conference table.

This study describes the various activities of the FPJMT and analyzes the negotiations to determine the negotiating tactics and strategy used by the US and DRV negotiators. The results achieved by the US Delegation are noted. Based on the evidence available, a conclusion is made that the DRV Delegation was relatively unsuccessful in achieving their apparent objectives. A suggestion is made, however, that more

information is necessary before the true success or failure of the DRV Delegation can be accurately measured.

A comparison is made of the tactics used by the US Delegation with some suggested tactics developed by Gerald L. Steibel who is a noted author on the matter of negotiating with Communists. The comparison revealed that some of Steibel's tactics were followed by the US Delegation, others were not, and one of Steibel's suggestions proved to be inappropriate when applied to the DRV negotiators. The thesis concludes with an observation that the US Delegation was unable to fully accomplish its mission primarily because continued US support of the RVN Government was of higher priority than recovering America's dead and missing.

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CHAPTER 1

INTRODUCTION

Purpose

The purpose of this research is to describe and analyze the negotiating tactics and strategy used by the United States and North Vietnamese Delegations at the Four Party Joint Military Team meetings in Saigon from April 1973 to June 1974.

Nature of the Problem

On January 27, 1973 "The Agreement on Ending The War and Restoring Peace in Vietnam" was signed after more than four years of intense negotiations. The "Paris Agreement" as it was to be called, was very clear in regards to the return of prisoners of war. The Four Party Joint Military Commission (FPJMC) was created with representatives from the United States, The Republic of Vietnam (RVN), The Democratic Republic of Vietnam (DRV) and the Provisional Revolutionary Government of the Republic of South Vietnam (PRG). The FPJMC was to execute the complete return of all prisoners of war (POW's) simultaneously with the withdrawal of US and Allied forces from South Vietnam. Within 60 days after the signing, and in accordance with the established timetable, all US and

¹ foreign POW's, as reported by the North Vietnamese and Provisional Revolutionary Government, were returned. With this mission completed, the FPJMC was dissolved and for most Americans involvement in the Vietnam War had ended.

On 29 March, 1973, in accordance with the Paris Agreement, the Four Party Joint Military Team (FPJMT) was created as a follow-on to the FPJMC. The tasks to be accomplished by the FPJMT were outlined in Article 8(b) of the Agreement:

The Parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.²

The mission of the 15-man US Delegation (USDEL) to the FPJMT was further amplified when negotiating priorities were established by the American Embassy in Saigon. The first priority of the Team was to recover 70 bodies of US prisoners who had been reported by the DRV and PRG as having died in captivity (DIC's). Twenty-three of these were reported to be in the DRV and the remaining 47 were in PRG-controlled areas of South Vietnam. The second priority was to seek information from the other side on specific MIA's who, according to US records were believed captured alive. The third priority was given to the negotiation of procedures for air and ground searches of crash sites located throughout Indochina. The fourth

priority was to be recovery of personnel who were believed to be dead but whose bodies had not been recovered (BNR's).

Forty-five days after the negotiations began, the US Delegation had visited the graves of 23 DIC's in North Vietnam. Yet, after the first year of negotiations between the four parties not a single body had been returned.³ Throughout the existence of the FPJMT not a single piece of information was ever passed about those Americans who were believed to have been captured alive. Procedures were never worked out for the conduct of crash site investigations. Although some small progress was made in recovering BNR's, when the FPJMT negotiations ended over 500 bodies had still not been recovered.⁴

Methodology and Literature

The historical method of research is used. The primary effort in preparing the thesis is devoted to discussing what actually took place during the various activities of the FPJMT then, as objectively as possible, to analyze this data to determine the negotiating tactics and strategy used. The reader should be cautioned that all of the secondary sources used were written by Americans. As such, they are probably influenced by cultural bias. Similar material written by North Vietnamese authors, with the few exceptions included in the study, is simply not available. Without being able to present both views, total objectivity cannot be achieved. Cul-

tural and linguistic differences, ideology and internal and international politics are all determinants of the negotiating process. These factors are not within the scope of the research. The emphasis is placed on the "what" and "how" of the negotiations rather than the "why".

Secondary sources are used mainly for background information and concentrate on the Paris Peace Talks conducted from 1968 to 1972. Some of the major works used in the thesis are American Foreign Policy: Three Essays by Dr. Henry Kissinger, Kissinger: The Uses of Power by David Landau, How Communists Negotiate by Admiral C. Turner Joy and hearings conducted by the U. S. Senate Subcommittee on National Security and International Operations.

Primary sources include biographical sketches, memoranda dealing with the tactics and strategy used by all four parties, statements of policy and guidance from both the Department of State and Department of Defense and transcripts and tapes of many of the negotiating sessions. A personal interview was conducted with Lieutenant Colonel Jean A. Sauvageot, USA, who was assigned as personal interpreter to the late Major General G. H. Woodward, Chief of the US Delegation to the FPJMC. Colonel Sauvageot attended the daily FPJMC plenary sessions

during the 60 days of the JMC's existence. An interview by correspondence was conducted with Colonel William W. Tombaugh, USA, Chief of the US Delegation to the FPJMT from June 1973 to August 1974. In addition, the writer will draw on his own participative observations as a member of the negotiating staff and Chief of the Translation Division in the US Delegation from April 1973 to January 1974.

From a military perspective, the FPJMC would have been an ideal vehicle to study the tactics and strategy used by both sides in the negotiating process at that level. The Chiefs of each of the Delegations were of higher rank and closer in the chain of command to their respective governments. The issues involved would have seemed to be more comprehensive in terms of the overall postwar situation.

However, there are disadvantages in using the FPJMC as a tool to analyze the tactics and strategy. The FPJMC was only in existence for 60 days after the signing of the Agreement. Although there were other issues involved in the negotiations, the primary emphasis was on the return of US POW's and the withdrawal of all US forces from Vietnam. Due to the advantages which would accrue to both sides, there was incentive to implement the already settled provisions rather than negotiate new issues.

The FPJMT existed for two years from April 1973 to April 1975. The FPJMT did not have the definitive guidance

given to it that the Fourth Protocol of the Paris Agreement provided the FPJMC. The issues involved were not necessarily of mutual advantage to the parties concerned. The charter paragraph which gave existence to the FPJMT was open to a wide range of interpretation. There was no time limit set on the existence of the Team and any advantage gained by the parties would have to come through negotiation of new agreements rather than implementation of already settled issues.

For the reasons cited the FPJMT has been chosen as the better means to examine negotiating tactics and strategy. For historical purposes a brief summary of FPJMC activities is included at Appendix A.

Organization

The thesis is organized to allow the reader to first gain an insight into the historical setting (Chapter 2) in which the negotiations occurred and to understand the basic philosophy of the DRV view of the negotiating process. The Chapter also contains a brief description of the provisions of the Paris Peace Agreement.

Chapters 3, 4, and 5 are in-depth analyses of the three major issues upon which the negotiations centered. It is these Chapters in which the negotiating tactics and strategy are identified and developed. To conclude the research, Chapter 6 contains a summary of US and DRV nego-

tiating tactics and strategy. In writing How Communists Negotiate, Gerald L. Steibel developed eight "Operational Tactics" which he suggests should be used by US negotiators when dealing with Communist opponents. A comparison is made of Steibel's tactics to determine whether or not they were, or would have been, applicable to the FPJMT negotiations. Finally, an explanation is offered as to the results achieved by the two parties and a suggestion is made as to the strengths and weaknesses of both the US and DRV delegations.

Appendixes are referenced at appropriate places in the thesis.

Value of the Research

As in Korea, the United States was forced in Vietnam to conclude a major limited war against communist forces through negotiations. With the signing of the Paris Agreement on January 27, 1973, the US Military was tasked with arbitrating a final settlement to some of the unresolved issues of the War in the forum of the joint military commission. Other than General Woodward, who had negotiating experience in Korea, few members of the US Delegation had experience or background knowledge in the unfamiliar arena of political-military negotiations.

The setting in Saigon was one in which US Military officers found themselves in a position of negotiating issues which were vital to the interests of their

government and its allies. The insights gained in the study are from a military perspective and significant to those who may find themselves in similar situations in the future.

The return of 23 American bodies from Hanoi was the only tangible accomplishment of the US Delegation. Still unresolved is the fate of over 900 Americans listed as either killed or missing in action and 53 Americans who were known to have been captured alive. No progress was made on the repatriation of the bodies of 47 Americans who died in captivity in South Vietnam. Even though Saigon has fallen, the US Government has pledged to continue the demand for a full accounting of missing Americans. The fact that the negotiations may some day continue makes the need for research of this nature vital to the success of US military negotiators in the future. It is hoped that this thesis will in some measure contribute to that success.

CHAPTER 2

HISTORICAL SETTING

A Change in Strategy

According to Dr. Henry Kissinger, the events that led to negotiations between the US and the DRV to end the Vietnam War probably started in November 1967. It was during this time that General William C. Westmoreland addressed a Joint Session of Congress and reported that the war was being militarily won. He outlined to the Congress the indicators of American progress and stated that a withdrawal of US combat forces might begin in late 1968. Two months later, President Johnson, in his State of the Union address reinforced General Westmoreland's optimism by reporting that sixty-seven percent of the Vietnamese population was living in relatively secure areas. One week later, on January 27, 1968, the Tet Offensive began and the US pronouncements of a military victory in Vietnam lost all credibility. The reality that the end of the war would come only through a political solution was accepted and plans were made to enter into negotiations with the DRV.

DRV Negotiating Philosophy

A negotiated settlement of the war was not a new

idea to the DRV. In fact, as early as 1966 there is evidence which shows the DRV had already accepted the fact that there would be negotiations with the US. It is important to understand how the DRV viewed the negotiating process, what they expected to achieve and why they would choose to negotiate at all. Some of the answers to these questions can be found in two important documents captured from communist forces in 1966. The first document was a letter from Le Duan, First Secretary of Hanoi's Lao Dong Party addressed to the late General Nguyen Chi Thanh, NLF Commander-in-Chief in the south, explaining resolutions of the central committee concerning the war. Extracts from the letter appear below:

When speaking of defeating the US imperialists, we mean we are advocating the policy of destroying as much of their potential as possible, checking their military purpose, crushing their aggressive scheme, thus preventing them from enlarging and protracting the war of aggression, and forcing them into submission on specific conditions and finally getting them out of South Vietnam...

But the basic problem is to defeat the imperialists on the battlefield, to foil their political and military plan, to destroy as much of their potential as possible, and undermine the puppet army. Only when we comply with the above requirements can we break up their plan of aggression.

As far as the general strategy is concerned, we are advocating that the revolution in South Vietnam has to pass through several transitional phases prior to advancing toward national reunification and socialism. With regard to struggle, we stand for joint political and armed struggle, that is to say, the armed struggle must be simultaneously conducted with the political one. Heavy emphasis is to be placed on the political struggle which includes the

diplomatic struggle, which is of prime importance. As a consequence, the strategy on war and negotiation must be properly used to efficiently serve the political and military aims of our strategy on pitting the weak against the strong.

The problem of war and negotiation is not quite new in the history of our country. Nguyen Trai had once used such a strategy to defeat the feudalist elements of Ming's dynasty. Our comrades in China had also adopted the "fight-and-negotiate" policy in their struggle against the US and Chiang Kai Shak. The same strategy was used in the Korean War.

However, this problem is very complicated considering that, at present, when speaking of negotiations, the views are quite divergent. The US views hold that negotiation is to be conducted from a strong position. Some countries which sincerely support our struggle but, in view of diplomatic reasons and their domestic administration and misunderstanding of the situation in our country want to see us at the conference table in order to forestall blackmail sacrifice on our part. There are those who hold the view that the political struggle is of major importance, but such a view is different from ours as to degree and time to use this strategy.

At present, the US imperialists, on the one hand, are attempting to widen the war in a move to save them from the sad predicament and quagmire but, on the other hand, are trying to force us to negotiate for some concessions. As for us, we must constantly take the initiative, our strategy on negotiation must serve in a practical manner our concrete political aims. For this reason, the Party Central Committee has unanimously entrusted the Politburo with the task of carrying out the above strategy in conformity with the policy of our Party and on the basis of the situation between us and the enemy whenever necessary...²

The second document, which revealed how Hanoi was to accomplish Le Duan's strategy was a summary of a speech made at the Fourth COSVN Congress in April 1966 by North Vietnamese General Nguyen Van Vinh, Chairman of the Lao Dong Party Reunification Department. Extracts appear below:

The resolution of the Party's 11th conference clearly stated that in the process of achieving success a situation where fighting and negotiations are conducted simultaneously may arise. At present, the situation is not yet ripe for negotiations. Fighting while negotiating is aimed at opening another front with a view to making the puppet army more disintegrated, stimulating and developing the enemy's internal contradictions and thereby making him more isolated in order to deprive him of the propaganda weapons, isolate him further, and make a number of people who misunderstand the Americans clearly see their nature.

In a war between a powerful country which waged aggression and a weak country, as long as we have not yet acquired adequate strength, a situation where fighting and negotiations are conducted simultaneously does not exist. Fighting continues until the emergence of a situation where both sides are fighting indecisively. Then a situation where fighting and negotiations are conducted simultaneously may emerge. In fighting while negotiating, the side which fights more strongly will compel the adversary to accept its conditions. Considering the comparative balance of forces, the war proceeds through the following stages:

- The fighting stage.
- The stage of fighting while negotiating.
- Negotiations and signing of agreements.

Whether or not the war will resume after the conclusion of agreements depends upon the comparative balance of forces. If we are capable of dominating the adversary, the war will not break out again, and conversely. Therefore, fighting while negotiating also represents a principal step in the evolution of the war. Thus, a situation where fighting and negotiations are conducted simultaneously will unmistakably emerge. In our anti-French resistance, there were also times when fighting and negotiations were conducted simultaneously. The same situation emerged in China.

At present, there are different viewpoints with regard to war and peace.

The Americans find it necessary to negotiate, but negotiate from a strong position, partly because they have deceitful motives, and partly because the situation has compelled them to negotiate. Yet, they want us to make concessions to them.

A number of countries want us to enter into negotiations, any form of negotiations so that a big war

does not break out, and that the war can be ended, regardless of the interests of Vietnam. Some other countries wonder whether we can defeat the Americans, and if not, they think we should enter into negotiations. Most of these countries are nationalist countries in Asia, Africa and Latin America. A number of East European socialist countries hold the view that conditions for negotiations do prevail, and are ripe for achieving success. The Americans would withdraw their troops, and we will continue the struggle to achieve total success. Those socialist countries also pose a number of conditions: cessation of the bombing of the North; gradual withdrawal of US troops from the South.

China holds the view that conditions for negotiations are not yet ripe, and will not be until a few years from now, and, even worse, seven years from now. In the meantime, we should continue fighting to bog down the enemy, and should wait until a number of socialist countries acquire adequate conditions for strengthening their main force troops to launch a strong, all-out, and rapid offensive, using all types of weapons and heading no borders. What we should do in the South today is to try restraining the enemy and make him bogged down, waiting until China has built strong forces to launch an all-out offensive.

Our Policy: To continue fighting until a certain time when we can fight and negotiate at the same time.

This is also a fighting method. We must repulse the enemy step by step and achieve decisive results.

The Party Central Committee entrusts the Politburo with the task of deciding on the time for negotiations.

Basing ourselves upon the actual situation and considering the opinions of the friendly countries which have provided us with quite a large volume of assistance, in order to gain their maximum support, the future situation may lead to negotiations. Yet, even if there are negotiations, they are to be conducted simultaneously with fighting. While negotiating, we will continue fighting the enemy more vigorously. It is possible that the North conducts negotiations while the South continues fighting, and that the South also participates in the negotiations while continuing to fight. Those who are in charge of conducting negotiations negotiate and those in charge of fighting continue fighting, because the decisive factor lies in the battlefield. The enemy wants us to stop fighting, for his advantage. But we have to

fight. Therefore, the enemy also fights. We must fight to win great victories with which to compel the enemy to accept our conditions. If we stop fighting at that stage, no considerable success can be achieved in negotiations. If we conduct negotiations while fighting vigorously, we can also take advantage of the opportunity to step up the political struggle, military proselytizing, and activities in the cities. Thus, we will take advantage of the opportunity offered by the negotiations to step up further our military attacks, political struggle and military proselytizing. At present, the Americans have put forth deceitful arguments. Therefore, we must put forth conditions to prove that we fight for the aspirations and interests of the people and thereby win the support of various countries.

If the enemy wants to negotiate, he must accept a number of conditions, such as, to permanently cease his war of destruction against the North, withdraw his troops from the South, and dismantle his military bases. The failure to pose the above conditions is tantamount to implicitly accepting the American's presence in the South.

Depending on the situation prevailing at the time, we will impose conditions. For example, the puppet forces must be concentrated in barracks, must not repress the people, must not carry out espionage activities, must allow the people to move about freely or choose their places of residence, must not herd the people into strategic hamlets and concentration centers. The American troops must be stationed at the wharfs.

The basic situation prevailing in the South for the past years requires that we attack the enemy more vigorously. This front involves millions of people, while attacking, we must concentrate all our forces on fighting the enemy.³

A Similar View

This reflection of how the North Vietnamese viewed the negotiating process, or the objectives they hoped to gain was not new in terms of past US experience. Based partly on Marxist-Leninist philosophy and partly on ethnocentrism, the DRV negotiators used tactics and

strategy not unlike that used by both North Korean and Chinese negotiators in earlier years.

In writing for the National Strategy Information Center, Gerald L. Steibel points out the Chinese practice of Mao's strategy, "fight-talk-fight-talk". When the other side could not win a military victory in Korea and were confronted with the threat of nuclear weapons they quickly moved to the negotiating table to "conduct warfare by other means".⁴ Steibel also discusses China's decision to move the Indochina War against France to the bargaining table in 1954, where open warfare was replaced by the "tactical use of diplomacy".⁵ In other words, the negotiations were not looked at as the final phase where differences could be settled, rather the negotiations were but a continuation of the struggle on another front.

Admiral C. Turner Joy, Senior Delegate and Chief of the United Nations Command Delegation to the Korean Armistice Conference in 1951, recorded many of the tactics used by the North Koreans. He observed from his own experience that once negotiations had begun the other side was not satisfied to allow matters to proceed in an orderly fashion, but would create incidents to provide advantages to their negotiating position.⁶ He also described the North Korean tactics of delaying progress, introducing superfluous issues and denying or distorting the truth.

Arthur Dean, Representative of the United Nations Command and the United States as Special Ambassador and

chief negotiator at the post-armistice Panmunjon meetings, also reported that in the negotiating process the Communists believed that they could humiliate the other side and win or lose a conference in the very first battle over the order of the issues to be discussed:

The Communists did their best to put the onus of world opinion on the United States for holding up the talks at Panmunjon over the precise order of the agenda before they would even begin to negotiate the political conference. People unfamiliar with negotiations with Communists often ask, "What difference does it make which item you take up first?" The answer is that if you once agree to the Communist order you cannot go on to the next item until you have yielded to the Communists' wishes on the first.⁷

Chester Cooper, special assistant to Ambassador Harriman and frequent aide to Dr. Kissinger during many sessions with the North Vietnamese, recalled his experience negotiating with DRV officials in August 1968.

There are more pleasant ways of spending an afternoon than negotiating with the North Vietnamese. You say to them, we want to play baseball, and they say, all right, let's play baseball. You say, nine men on a side? Okay, nine men on a side. Nine innings in the game? Fine, they agree, nine innings in a game. Only by the time you finish, there are six men on each team and you're playing hockey.⁸

The Beginning of The Paris Negotiations

It was May 13, 1968 when the first meeting between US and DRV officials occurred which eventually led to the Paris Peace Talks. It wasn't until January 11, 1969, that the first substantive talks occurred with all four parties represented: the US, DRV, RVN and the NLF.⁹

The eight month delay between the first meeting in

May 1968 and the first substantive talks in January 1969, was a period of frustration and bewilderment for the Johnson administration as well as the American Public. But to the DRV negotiators the issues which caused the delay were vital to their negotiating position. The position referred to here is not necessarily one of substance. As described by Dr. Kissinger, to the DRV, "the way negotiations are carried out is almost as important as what is negotiated. The choreography of how one enters negotiations, what is settled first, and in what manner is inseparable from the substance of the issues" (underlined emphasis mine).
10

The DRV Basic Negotiating Position

The two issues which caused the eight month delay were the US demand that the DRV enter into talks in reciprocation for a halt to the bombings in North Vietnam, and the shape of the conference table at which the conference would be held.
11

The bombing halt was the primary issue and caused the first six months of the delay. In January 1967, DRV Foreign Minister Nguyen Duy Trinh outlined the possibility of negotiations with the US:

If the United States really wants talks, it must unconditionally stop the bombing and all other acts of war against the Democratic Republic of Vietnam. It is only after the unconditional stopping of the bombing and all other American acts of war against the DRV that talks can take place between the DRV and the United States.¹²

The bombing halt was only the visible substance of the disagreement. The real issue was the way in which the DRV entered the negotiations and the establishment of its position of strength when the talks began.

Minister Trinh had meant exactly what he had said. There had to be an unconditional halt to the bombing before talks could begin. The DRV could not enter into negotiations with the US under the impression that it had been forced to do so by the bombing raids in the North. To make the first concession, as far as the DRV was concerned, would have weakened its position in the eyes of world opinion. In the minds of the DRV negotiators, the first concession would have only led to more.

Dr. Kissinger gives a good insight into the views held by the DRV:

...Hanoi is extraordinarily dependent on the international environment. It could not continue the war without foreign material assistance. It counts almost as heavily on the pressures of world public opinion....

...It would be difficult to imagine two societies less meant to understand each other than the Vietnamese and the Americans. History and culture combine to produce almost morbid suspiciousness on the part of the Vietnamese. Because survival has depended on a subtle skill in manipulating physically stronger foreigners, the Vietnamese style of communication is indirect and, by American standards, devious--qualities which avoid a total commitment and an overt test of strength. The fear of being made to look foolish seems to transcend most other considerations. Even if the United States accepted Hanoi's maximum program, the result might well be months of haggling while Hanoi looks for our "angle", and makes sure that no other concessions are likely to be forthcoming (underlined emphasis mine).¹³

On November 1, 1968, President Johnson announced the unilateral halt to bombing in North Vietnam. The US withdrew its demands that the DRV guarantee productive discussions in return for the halt and it appeared that the talks would begin immediately. This was not to be and two more months passed before the talks began in earnest.

The issue this time, at least on the surface, was the shape of the conference table. But, as with the bombing halt, there were other reasons. The issue was much deeper than merely some oriental philosophy concerning geometric shapes.

When the US was unable to gain DRV reciprocation for the bombing halt it sought to use the issue as a means of gaining participation by the South Vietnamese ¹⁴ in Paris. True, the bombing halt was unilateral, but it was not unconditional. Through secret negotiations the US made it clear to the DRV that the South Vietnamese had to be included at the conference table. This move prompted the DRV to insist that the PRG also be included. The problem then arose as to how each delegation would be seated around the table because the US and RVN did not want to recognize the PRG as a legal entity. The DRV skirted around the legal status of the PRG and finally agreed to a single round table, which gave equal status to all four participants. This led to de facto recognition of the PRG as a potential governing

force.

After the Paris Peace Talks began in earnest, Dr. Kissinger admitted that tying the bombing halt to Saigon's participation in the discussions was probably unwise.¹⁵

Dr. Kissinger's judgment was based on the fact that Hanoi seemed to have been prepared to continue the talks on a bilateral basis, and the participation of Saigon and the PRG raised issues which would have been better deferred.

While Dr. Kissinger's statement is probably true, it doesn't give the true significance of what the North Vietnamese accomplished in setting the stage for the negotiations. As mentioned earlier, the way the negotiations are conducted and the choreography of how the DRV entered the negotiations was vital to their basic position. In this light, the DRV entered Paris under their own terms. There had appeared to be an unconditional bombing halt on the part of the US. The DRV was under no reciprocal agreement to discuss anything of substance. They had not been coerced into negotiating with the US. They had achieved a psychological advantage in terms of their own negotiators and world opinion was favorable to their actions. As an added benefit, the DRV was able to gain for the PRG a political status "equal" to that of the Saigon government.

It would appear then that the DRV entered the Paris negotiations from a position of psychological and political strength. The DRV enjoyed this same basic

negotiating position when the FPJMT talks began in Saigon in April of 1973. The only difference being that the DRV now enjoyed the advantage of having its own forces still positioned inside South Vietnam while the US and Allied forces had been withdrawn.

The Paris Agreement

The Paris Agreement, as it has come to be known, is actually a document entitled, "Restoring Peace in Vietnam". It is divided into nine chapters containing 23 articles and four protocols. A brief review of the document is presented here to acquaint the reader with the general provisions of the Agreement and to highlight those specific areas pertinent to the FPJMC and the FPJMT.

Chapter I, Article 1 affirmed the independence, sovereignty, unity and territorial integrity of Vietnam as recognized by the 1954 Geneva Agreements on Vietnam.

Chapter II: Articles 2 through 7 dealt with the cease-fire which officially went into effect at 7:00 PM, Washington time, January 27, 1973. (8:00 AM Sunday, January 28, 1973, Saigon) The Chapter also called for the withdrawal of American and all other foreign forces from Vietnam within 60 days. There was a flat prohibition against the introduction of any military forces into South Vietnam from outside South Vietnam. By not requiring their withdrawal the DRV was permitted to leave over 100,000 troops inside South Vietnam. The Chapter

did prohibit those forces from receiving reinforcements, replacements, or any other form of augmentation. With respect to military equipment, both the RVN and the PRG were permitted to replace all existing military equipment on a one-to-one basis under international supervision and control.

Chapter III, Article 8 called for the return of all captured military personnel and foreign civilians as well as civilian detainees within South Vietnam. This particular Chapter was extremely difficult to finalize at the Paris Negotiations.¹⁶ The US foresaw that negotiations concerning the release of civilian detainees would be complex and difficult. America could not afford to have the issue of its POW's tied up with civilian personnel detained in South Vietnam. As a result, the Chapter had three separate provisions outlined in Articles 8(a), 8(b), and 8(c). Article 8(a) tied the return of captured military personnel and foreign civilians of the parties to the simultaneous withdrawal of all US and Allied forces. Article 8(b) dealt with the missing in action and care of the graves of the dead of the four parties. It is this Article which gave the charter to, and reason for, the establishment of the FPJMT after the FPJMC had completed its work. Article 8(c) separated the issue of Vietnamese civilian personnel, captured and detained in South Vietnam, from the US prisoner releases and called for the problem to be settled

by the two South Vietnamese parties on the basis of the principles of Article 21(b) of the Agreement on the Cessation of Hostilities in Vietnam of July 20, 1954.

Chapter IV, Articles 9 through 14 contained a joint statement by the US and DRV in which both countries jointly recognized the South Vietnamese people's right to self-determination concerning the political system of their country. The Chapter also provided for the establishment of a National Council of National Reconciliation and Concord which was to organize free and democratic general elections.

Chapter V, Article 15 dealt with the reunification of Vietnam and the relationship between North and South Vietnam. Each side was pledged to respect the demarcation line at the 17th parallel. Reunification was to be achieved on a step-by-step basis through peaceful discussions and agreements between North and South, without coercion or annexation by either party, and without foreign interference. The time for reunification was to be agreed upon by both North and South Vietnam.

Chapter VI, Articles 16 through 19 outlined the international machinery for the control and supervision of the Agreement. Article 16(a) called for each party to immediately designate a representative to form the FPJMC with the task of ensuring joint actions by the parties in implementing various provisions of the Agreement. The FPJMC was to operate in accordance with the principles of

consultations and unanimity. Disagreements were to be referred to the International Commission of Control and Supervision (ICCS). Article 16(c) specified that the FPJMC was to begin operations immediately after the signing of the Agreement and end its activities in sixty days, after the completion of US and Allied troop withdrawals and the return of all US POW's. Article 17(a) established the Two Party Joint Military Commission (TPJMC) consisting of RVN and PRG representatives. The TPJMC was to deal with those military issues that affected only their parties and was to continue until it was no longer needed or until requested to dissolve upon a political settlement by the two South Vietnamese parties. Article 18(d) commissioned the membership of the ICCS: India, Hungary, Poland and

¹⁷ Canada. Article 19 enunciated the agreement among the parties to convene an International Conference for the purpose of guaranteeing a lasting peace in Vietnam. The countries which were to be invited to the Conference were spelled out: the People's Republic of China, the Republic of France, the Union of Soviet Socialist Republics, the United Kingdom, the four countries of the ICCS, the Secretary General of the United Nations and the four parties signatory to the Agreement. In Paris, on March 2, 1973, the Conference issued the "Final Act of the International Conference on Vietnam". The text of the "Final Act" is enclosed at Appendix B.

Chapter VII, Article 20 dealt with Laos and

Cambodia. All four parties agreed to respect the 1954 Geneva Agreements on Cambodia and the 1962 Geneva Agreements on Laos. The parties agreed to refrain from using the territories of the two countries to encroach on the sovereignty and security of one another or of other countries. Article 20 specifically called for all foreign countries (including North Vietnam and the United States) to end all military activities in Cambodia and Laos, totally withdraw and refrain from reintroduction into the two countries' troops, military advisors and military personnel, armaments, munitions and war materials.

Chapter VIII, Articles 21 and 22 outlined the relationship between the United States and the DRV. In Article 21 the US pledged to contribute to the healing of the wounds of war and promised postwar reconstruction aid to the DRV and throughout Indochina.

Chapter IX, Article 23 was the implementing provision of the Agreement and called on all parties to strictly implement the Agreement and its Protocols.

The first Protocol to the Agreement dealt with the ICCS. Although the old International Control Commission (ICC), comprised of Canada, Poland and India, proved to be incapable of preventing the resurgence of the war after the 1954 Geneva Agreements, it would appear that the DRV was not sure what influence the new ICCS might have on postwar activities. The original DRV proposal for the supervisory body might indicate that

they were not in favor of giving the ICCS the resources to accomplish much at all. The DRV proposed a 250-man organization, without organic logistics or communications, dependent on its authority to move on the party it was supposed to be investigating and with half of its personnel stationed in Saigon.¹⁸ The final agreement outlined in the Protocol called for a total 1,160 personnel. The Commission was to be headquartered in Saigon and there were to be seven regional teams located in Hue, Da Nang, Pleiku, Phan Thiet, Bien Hoa, My Tho and Can Tho. In addition, there were to be 26 teams positioned in localities throughout South Vietnam. These sub-sites were chosen because there were forces already in contact at these points or they were areas where cease-fire violations appeared most probable. There were also 12 teams designated for border crossing areas, seven teams to supervise the ports of entry for replacement war material and seven teams to observe the prisoner exchanges.

The expenses for the ICCS were to be borne by the four parties and the members of the Commission. Each member country was to pay the salaries and allowances of its personnel. Each of the four parties was to contribute 23 percent of the total expenses and each member country was to contribute two percent. Within 30 days after the signing of the Agreement, each of the four parties was to provide the equivalent of 4,500,000 French

Francs (\$1, 125,000) in convertible currency, with which the Commission could begin its operations. The ICCS was to operate on the principles of unanimity and render its reports to each of the four parties and the International Conference.

The second Protocol concerned only the US and the DRV and dealt with the commitment by the US to remove the mines from the harbors and rivers of North Vietnam. The Protocol outlined the procedures by which the US would clear all mines it had placed in the "territorial waters, ports, harbors, and waterways" of the DRV and specified that the action would be accomplished by "rendering the mines harmless through removal, permanent destruction or deactivation".

The third Protocol dealt with the return of captured military personnel, foreign civilians and captured and detained Vietnamese Civilian personnel. It provided the implementing instructions for Chapter III, Article 8 of the Agreement. With regard to dead and missing persons, Article 10(a) of the Protocol granted authority for the establishment of the FPJMT:

The Four Party Joint Military Commission shall ensure joint action by the parties in implementing Article 8(b) of the Agreement. When the Four Party Joint Military Commission has ended its activities, a Four Party Joint Military Team shall be maintained to carry on this task.¹⁹

The last Protocol provided for the implementation of the cease-fire and outlined the organization and pro-

cedures for both the FPJMC and the TPJMC. The Joint Military Commissions were organized and positioned similar to the ICCS. The FPJMC was given five "concrete tasks" to perform within a 60 day period.

1. To coordinate, follow and inspect the implementation of the pertinent provisions of the Agreement.
2. To deter and detect violations, to deal with cases of violations and to settle conflicts between the parties relating to the Agreement.
3. To send out joint teams as required to investigate alleged violations and to assist the parties in finding measures to prevent recurrence of similar cases.
4. To observe at whatever locations required, in order to carry out its functions.
5. To perform any other tasks, as it may, by unanimous decision, so determine.

A New Arena

With the signing of the Paris Agreement, the US and the DRV had both come a long way since the beginning days of the talks in 1968. The DRV had gained their three objectives articulated by General Vinh in his speech in 1966. The US had agreed to stop the bombing in the North, withdraw all of its troops and dismantle all of its military bases in the South. The US, on the other hand, had gained from the DRV an agreement to return all US prisoners, give a full accounting of the missing in action and allow the South Vietnamese to choose their own form of government without outside interference from North Vietnam. The Paris Agreement had provided a framework by which a lasting peace could be brought to

Vietnam. The operatives in that framework were to be the Joint Military Commissions. The US military had moved from the familiar area of the battlefield to the unfamiliar arena of the negotiating table.

CHAPTER 3

IMPLEMENTATION OF ARTICLE 8(b)

The Negotiations Begin

On April 2, 1973, the USDEL, FPJMT was officially established and on April 4, the first meeting of the JMT was held. The maintenance and administration of the former site of the FPJMC on Tan Son Nhut Air Base was assumed by the RVN Delegation to the TPJMC. The JMT was given the former POW Subcommission conference room as its official meeting place.

The first meeting was characterized by "polite" and "businesslike" exchanges between the four delegations. The USDEL hosted the first meeting and proposed that the JMT follow the same precedents and administrative procedures that had been established in the JMC. The three Vietnamese delegations generally agreed. The USDEL then outlined the arrangements which had been made for the weekly Saigon/Hanoi liaison flight. The other delegations generally agreed again, but the DRV informed the US that the aircraft could not remain overnight in Hanoi. Although this was contrary to the US proposal, the problem was quickly solved.¹

The US then gave a brief overview on the concept of the Joint Casualty Resolution Center (JCRC) and

proposed that the JMT proceed with discussion of repatriation of those remains identified on the Paris POW lists as having died in captivity and discussion of procedures for exchange of information concerning MIA personnel. The RVNDEL agreed with the US proposal. The PRG and DRV both stated that discussion of JMT tasks should not begin until there was final agreement on working procedures to include such matters as communications, transportation,
2 minutes of agreement, and expenses.

The first meeting, and the next three which followed, were similar in both content and format. Necessary administrative procedures were agreed upon. No specific agenda was ever proposed or adopted. Each of the meetings was basically a continuation of the discussion from the previous meetings.

The US strategy during these first four meetings would appear to be that of accomplishing as soon as possible the priority tasks that had been furnished by the ABEMB, and implementing Article 8(b) based on our own interpretation of the provisions of the Article.

It would appear also that the USDEL held the initiative in these first two weeks. During this time the USDEL made 13 requests or proposals to the other side while only 3 were forthcoming from any of the other delegations:
3

1. US proposed arrangement for Saigon/Hanoi Liaison flight.

2. US proposed JMT follow JMC procedures.

3. US introduced JCRC.

4. US proposed repatriation of DIC's.

5. US proposed exchange of information concerning MIA's.

6. US proposed PRG/DRV be prepared to discuss procedure for return of DIC remains.

7. US asked PRG to provide information on one specific MIA whom intelligence sources reported as still being held captive.

8. US asked PRG cooperation in expediting return of DIC remains.

9. US again requested information about one specific MIA.

10. US provided DRV with list of DIC's on Paris list and requested immediate arrangements for repatriation.

11. US proposed procedure for repatriation of DIC's in DRV and PRG territory.

12. US requested locations of graves of DIC's from PRG.

13. US requested locations of graves of DIC's from DRV.

14. DRV/PRG/RVN proposed that US pay common expenses of the JMT.

15. DRV/PRG proposed that JMT adopt 11 points of privileges and immunities previously adopted by FPJMC.

16. DRV asked US to provide all available information about US MIA personnel.

All of the US requests during these first two weeks were politely received by the other side and assurances were given that everything possible would be done to furnish the information as quickly as it could be obtained.

The three requests made by the DRV/PRG were all answered in the affirmative. The US agreed to pay the common expenses of the JMT. The 11 points of privileges and immunities were adopted on May 3, 1973.⁴ On 17 April the US began furnishing the names of all US MIA's to all three of the other delegations.

Draft Minute of Agreement on Implementation of Article 8(b)

On Friday, 13 April, the DRV delivered a document to the other delegations entitled "Preliminary Proposal of the Military Delegation of the DRVN Concerning the Implementation of Article 8(b) of the Paris Agreement on Vietnam". The timeliness with which the DRV delivered the document indicated a degree of prior planning on their part. Each of the delegations had the document to study over the weekend and the DRV was to host the next meeting on April 17. The US Delegation was about to learn its first lesson in the skillful use of the loaded agenda as practiced by the DRV.

Before describing the first meeting hosted by the DRV, it is important for the reader to become familiar with the text of the DRV proposal on implementing Article 8(b). It is this document upon which the majority of the time of the negotiating session was spent from April until September 1973 and upon which no agreement was ever reached.

The proposal is reproduced verbatim on the next page. English translation provided by the DRV Delegation

and confirmed by the US Delegation:

PRELIMINARY PROPOSAL OF THE MILITARY
DELEGATION OF THE DRVN CONCERNING THE
IMPLEMENTATION OF ARTICLE 8(b) OF
THE PARIS AGREEMENT ON VIETNAM

I/. Content of the Implementing work of Article 8(b)

The four parties help each other the work as follows:

1/. To get information about military personnel and foreign civilians of the parties (abbreviated as "persons of the parties") considered missing in the war.

2/. To repair and take care of the graves of the dead of the other parties interred in the area controlled by each party.

3/. When the party is requested, to exhume the remains of the dead of the other parties and help them to remove these remains to the chosen places.

4/. In order to take care well the graves, each party helps the other parties when they request to build the cemetery and the war dead memorials (memorials) of these parties at the places where they were dead or the vicinities of those places.

5/. To create favorable conditions for the relatives of the dead of these other parties to visit the dead's tombs in the area under its control when the relatives of the dead request.

II/. A number of the implementing modalities of the above mentioned items.

1/. Each party provides the concerned party with the information about its persons considered missing. The requested party will try its best and by its own means to get information and provide these collected informations for the requesting party.

2/. The parties provide the concerned parties with the list of the dead of the parties who died in captivity.

3/. The party repairs and takes care of the graves in the area under its control. It will not get money from the other party for repairing and taking care of the graves except expenses on building the cemetery and the war dead memorials, these expenses shall be paid by the requesting party.

4/. The party exhumes the remains of the dead in the area under its control. When the concerned parties deem it necessary and possible, they shall coordinate with each other in the concrete cases in order to exhume the remains of the dead. The representatives of the parties shall be present when receiving. The expenses on the exhumation and removal of the remains shall be paid by the requesting party. When exhuming the remains, the parties must pay attention to sanitation, must respect the customs and practice of the localities.

5/. Each party must ensure safety, help each other about the movement and living condition and facilitate the persons of the other parties coming to the areas under its control in order to visit the graves or to receive the remains of the dead of the other parties. The visit of the graves and the reception of the remains will be agreed by the parties in each concrete case.

April 13, 1973.

The Agenda

In writing How Communists Negotiate, Admiral C. Turner Joy presents an analogy of how the North Koreans attempted to use the agenda to their advantage:

Among men who adhere to logic, an agenda is understood to be only a list of topics to be discussed, concerning which agreed conclusions are later required. For example, Americans meeting to discuss arrangements for a baseball game might adopt an agenda as follows:

1. Place the game is to be played.
2. Time the game is to start.
3. Selection of umpires.

Communists, however, would submit an agenda like this:

1. Agreement that game is to be played in Shanghai.
2. Agreement that game be played at night.
3. Agreement that umpires be Chinese officials.

Thus the Communists seek to place their negotiating opponents on the defensive from the outset. If their rigged agenda is carelessly accepted by their opponents, the Communists are able to argue that the only questions remaining are: exactly

where in Shanghai the ball game is to be played, exactly what time at night the game is to start, and precisely which Chinese are to officiate.⁵

On April 17 the DRV opened the session by proposing a one-point agenda: "Agreement in Principle on the Draft Minute of Agreement presented by the DRV on 13 April". Note that the DRV Agenda was not to "discuss" their proposed draft, but rather a call for an "agreement" of their plan. If all delegations had agreed to the proposed agenda, because of the manner in which the agenda was worded, there would have been agreement "in principle" of the DRV proposal simply by agreement on the agenda. The only questions remaining would have been where graves, memorials and cemeteries were to be built for PRG soldiers, exactly where the relatives of the dead planned to ask that they be built, and who was to do the actual construction. The principle of whether or not graves, memorials and cemeteries should be built and whether or not relatives could freely cross the zones of control to visit the dead, would have never been discussed as part of the initial negotiations. That principle would have been conceded by agreeing to the agenda.

When the DRV draft was received by the USDEL there was not a great deal of reaction either for or against the proposal. The only written analysis of the acceptability of the document is a working paper prepared by CPT Jerome W. Scanlon, Legal Officer for the USDEL. CPT Scanlon felt the RVN might object to the DRV use of the words

"sovereignty" and "local administration" in reference to the PRG. These words did not even appear in the original draft but were included in an updated draft submitted a short time later.

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Although there is no written evidence available, the general feeling at the time was that the DRV agenda, and indeed the DRV Draft Minute of Agreement, might well have been accepted by the US as proposed. Events which are discussed in the next paragraph quickly changed this attitude. However, the point is made to show the well-planned approach taken by the DRV in the initial role as host of the meeting and the inexperience of the USDEL in understanding all that the DRV proposed agenda and Draft Minute of Agreement implied.

Because of their position at the table, the RVN Delegation was the first to respond to the DRV proposed agenda. Rather than agree or disagree to the agenda the Chief of the RVN Delegation began a 30 minute assault on the DRV accusing them of trying to use the issue to further their own military and political goals in South Vietnam. The RVN Chief violently objected to visits of graves by relatives and refused to even consider the construction of graves, memorials or cemeteries. Colonel Tu went on to cite PRG and DRV use of cemeteries constructed after the 1954 Indo-China War as hiding places for weapons and places from which PRG forces launched assaults on RVN positions. He specifically cited one cemetery in

Qui Nhon where the PRG had used the area to display Communist slogans. COL Tu concluded his remarks by asking why the DRVDEL was even interested in such matters since it had been their claim throughout the war that no DRV soldiers had ever entered South Vietnam.

Taken somewhat by surprise at the strong RVN objection to the DRV proposal, the US Delegation agreed with RVN and proposed that the issue be postponed and that the agenda focus on the requests for information the US had submitted in the first four meetings. The PRG agreed to the DRV proposed agenda. The DRV then reminded all delegations that, as host, it was their responsibility to propose the agenda. The DRV Chief then proceeded to accuse the US and RVN of several violations of the cease-fire since it had been signed and again called for an agreement on their original agenda. After more than three hours of polemics, all delegations agreed finally to "use the DRV Draft Minute of Agreement as a basis for discussion in future meetings".
7

And so, after only three weeks of negotiations, either by DRV design or US and RVN intransigence, the formal sessions of the JMT had reached an issue which was to cause a deadlock for the next six months and one which ultimately was never to be resolved.

Attempts to Break the Deadlock

As mentioned earlier, the search for an agreement

on implementing Article 8(b) continued for the next six months at a hopeless deadlock. This is not to imply that no further progress was made by the US in attempting to resolve the MIA and DIC issues. The progress that was made, however, was accomplished on a bilateral basis between the US and the DRV through private negotiation. The formal sessions of the JMT were devoted almost entirely to the Draft Minute of Agreement.

In the ensuing months, the original document as submitted by the DRV, was redrafted several times by all four of the delegations. On July 27 the US issued a recap of the points that had been agreed upon by all four parties:

The Four Parties have reached agreement on the contents of Article 8(b) of the Agreement on Ending the War and Restoring Peace in Vietnam:

I. The Parties will assist each other in carrying out the following points:

1- To get information about those military personnel and foreign civilians of the parties missing in action.

(a) Exchange lists of persons missing in action.

(b) Furnish necessary information and data regarding persons missing in action so as to facilitate the search.

2- To determine the location and take care of the graves of those persons who died in captivity or in action.

(a) Provide information about and determine the location of graves of dead persons.

(b) Take all practical measures to manage, look after, and maintain the graves of the dead persons.

3- To create favorable conditions for the exhumation and repatriation of the remains.⁸

The area in which no agreement could be reached was the construction of graves, memorials and cemeteries and visits to the graves by the relatives of the dead. These two paragraphs (Points 2(c) and 2(d) of the new document which was gradually taking shape) were submitted a total of 17 times in various form by each of the four delegations.

The last four proposals, submitted from 23 August to 11 September, of each of the delegations gives a good indication of the position held by each side.

DRV Proposal of 23 August 73. The concerned parties will assist each other to mark the graves and, upon the agreement between the two parties, to regroup the remains to an area chosen by the local authorities convenient to the repatriation of those remains. Final disposition on graves left in place will be decided upon by local authorities and in accordance with local customs.⁹

PRG Proposal of 6 September 73. The concerned parties shall help and cooperate with each other to regroup the remains of the dead in places convenient for the exhumation and repatriation or the building of the graves, cemeteries, memorials when the party to which the dead persons belong or the relatives of the dead persons make a request.¹⁰

DRV Proposal of 6 September 73. The concerned parties shall help and cooperate with each other to regroup the remains of the dead persons in places convenient for taking care of and for the exhumation and repatriation, or the building of the graves, cemeteries, memorials and visits when the party to which the dead persons belong or the relatives of the dead persons make a request.¹¹

US Proposal of 11 September 73. The concerned parties will assist each other to mark the graves and repatriate all remains so requested. Action upon graves of the Vietnamese dead in South Vietnam not moved to their native place will be decided upon by the

two South Vietnamese parties in coordination with local authorities and in accordance with Paragraph 8(D) of the Paris Joint Communiqué.¹²

In all of the proposals submitted by the DRV and the PRG, the need to build graves, memorials and cemeteries was clearly spelled out. In all of the US and RVN proposals, the words "graves, memorials and cemeteries", were purposely omitted.

Early in the negotiating sessions it became clear to the USDEL that in order to proceed with the draft agreement the issue of graves, memorials and cemeteries would somehow have to be addressed. The US strategy was to bypass the issue by agreeing in principle but transferring the responsibility for working out the details to the two South Vietnamese parties in the TPJMC.

The US drafted several proposals which stated that the question of graves, memorials and cemeteries was one that should be handled by the TPJMC. The RVN Delegation agreed with the strategy, but refused to agree with the words "graves, memorials and cemeteries" being included in the proposal.

Whether or not the DRV and PRG would have accepted the proposal will never be known. The disagreement between the US and RVN Delegations was forwarded to U.S. Ambassador Graham Martin. The Ambassador ruled that under no circumstances would the U.S. ever show an open split with the RVN Delegation at the conference table. And further, that the words "graves, memorials and

"cemeteries" would not be used in any of the USDEL proposals for rewarding point 2(c).

Operating under the restrictions cited above, the USDEL position on the issue became twofold. The first defense was that if graves, memorials and cemeteries had been so important, the issue would have been spelled out in the Paris Agreement. No mention of this subject was made in the Agreement, therefore, it was of no concern to the JMT. The second argument was that if the PRG was so concerned, the issue should be settled by the two South Vietnamese parties in the form of the TPJMC. The argument continued that the US did not want to build anything in North Vietnam and the DRV had no troops in the South, so neither did they have need to build memorials. The issue was strictly between the two South Vietnamese parties and should be handled in the body that had been created for that purpose.

Throughout the six months of the negotiations concerning the Draft Minute of Agreement the sessions gradually deteriorated to little more than a forum for polemics and propaganda by the two Communist delegations. On occasion, both the US and RVN Delegations would attempt to answer the DRV/PRG allegations and throw in a few of their own. In general, though, the US/RVN tactic was to resist being pulled into discussion on any matter outside the provision of Article 8(b).

Throughout this period, the US appraisal of the

DRV/PRG tactics was that they were using the issue strictly to tie up the negotiations and insure that no positive action could be taken. In addition, it was felt among many members of the USDEL that even if agreement could be reached on Point 2(c), the DRV would only introduce another issue that would prevent progress in resolving the MIA matter.

On September 11 Lieutenant Colonel Vo Tho Son, Chief of the PRG Delegation, delivered a prepared statement to the JMT in answer to previous arguments offered by Colonel Tombaugh. The USDEL still held the position that the graves, memorials and cemeteries issue was of no concern to the JMT and that the argument should be settled in the TPJMC.

Contrary to past statements, LTC Son's remarks were completely void of the usual propaganda and accusations against the US. The statement appeared to be a sincere attempt to present the PRG position and answer the USDEL arguments:

Gentlemen, our viewpoint concerning Point 2(C) is very clear as we have repeated many times. It is evident that our viewpoint is different from that of the US and RVN sides. According to me, COL Sau agrees that there must be cemeteries to bury our dead, but it is not necessary to build more cemeteries, because those available in RVN are sufficient. COL Sau invoked many reasons, but there is still one question to which COL Sau has not yet answered....
(inaudible)

We agree that we must comply with the requests of the relatives of dead and missing persons. There are a great quantity of these requests, but we are only discussing a few of them...Therefore, we have

one question; if the relatives of dead and missing persons of the parties do not require to move the remains into available cemeteries, or they recommend that separate graves be constructed....(inaudible)

The other day, Colonel Sau gave me a reply concerning this subject, saying that this is an easy problem to settle. I think that those measures recommended by Colonel Sau can be applied to civilians only, and with the current situation....(inaudible)

...they will have to comply with the procedures, as set forth by Colonel Sau. But we are here to discuss the issue concerning civilian and military personnel of all sides, MIA's or KIA's. I consider that this reply does not completely meet the requirements of the issue at hand. In regard to the construction of separate cemeteries, we do not necessarily demand that there must be separate cemeteries, but we only want to set forth this issue as depending on the people's aspirations; therefore, there could possibly be (these separate cemeteries)....(inaudible)

This means that there would be cemeteries where the dead persons belonging to both sides would be interred. However, this depends on the request of the relatives of the dead, and is based on practical conditions for building the graves. We know that some of our people died during captivity in RVN prisons and were buried by the RVN in a separate area. Therefore, in reality, there are separate cemeteries, so our proposal covers many aspects....(inaudible)

So I clearly restate our proposal of 6 Sept., and I also would like to say again, this is not a new point but this is our proposal which was raised in the 16 Aug. session, but which hasn't been discussed yet. So we have repeated it again. It doesn't mean that we have finished discussing it and that now we're making a new proposal which contains nothing new. Concerning the way in which COL Tombaugh presented the matter: "If the construction of monuments and cemeteries is a really important matter, then it would have been mentioned in the Protocols and the Joint Communique". COL Tombaugh asking a question like that makes me think COL Tombaugh may not consider this matter to be important, so that it was not mentioned in the Agreement or the Joint Communique. I am not sure if that was COL Tombaugh's opinion. I would like to bring it up, for I do not clearly understand if COL Tombaugh meant this. The US does not want to dis-

cuss the construction of cemeteries and monuments, for "this matter does not lie within the authority of the FPJMT but is the business of the two SVN parties to the Two Party JMC and is not stipulated in Article 8(b)". According to our study, this is the difference in interpretation of Article 8(b). We think that the FPJMT has the responsibility to discuss this matter. It must be discussed by the FPJMT, not the TPJMC. Now, we would like to clearly express our view on this point.

Concerning Article 8(b), COL Tombaugh just restated the first sentence dealing with mutual assistance, thus the implementation of Article 8(b) must be based on the spirit of providing mutual assistance by all parties. However, there is a point in Article 8(b) which is understood in different ways by each party. We think that all parties should fully understand this point according to the Agreement, and not in a separatist manner. We know that Article 8(b) clearly mentions the obtaining of information about missing persons, determination of location and taking care of the graves of the dead in order to facilitate the exhumation and repatriation of remains. Thus, it is clear that there are separate tasks to be performed, step by step. According to my understanding, the above tasks, such as the obtaining of information about missing persons, determination of location and taking care of the graves of the dead, are really two missions. These tasks are performed according to the requests of the party to which the dead belong and the dead's relatives. Why must we set forth two matters? Why do we raise the problem concerning the repatriation of the dead? According to our understanding, repatriation of remains means to repatriate the dead's remains to their native country. The English sentence in the Agreement is very clear. With regard to Vietnamese, there is no repatriation of remains because, according to our view, Vietnam is a unified country which may presently be divided into 2 parts and now, in SVN, there are 2 different areas which are, however, one country. To the Vietnamese there is no question of repatriation, and if remains are moved from one place to the other, such movement is still conducted within the homeland. But, why does Article 8(b) include the word "repatriation"? Because, as everybody is aware, according to Article #4 of the Paris Agreement, which I brought up in the last session, the US and its allies from foreign countries involved themselves in SVN by participating in the war in SVN. In Vietnam they have personnel who were killed or

are missing in action. Now, if the US and its allies request, the remains of those dead persons will probably be repatriated and the repatriation will be conducted in a spirit of mutual assistance. Hence, regarding those Vietnamese who are missing or killed in action, specifically, personnel of the two SVN parties, the question of repatriation cannot be raised. But here the question of exhumation of the remains is raised; if the dead's relatives request it. This task can involve regrouping the remains to a certain area or moving them to other places, all according to the request of their relatives, and with the condition that this task does not cause difficulties for the local area to which the request for regroupment of the remains is made. Therefore, from that point, we raise the construction of cemeteries and monuments, or graves as previously requested by our delegation. And we think that it has a legal basis in Article 8(b) of the Agreement. As stipulated in the Joint Communique, Article 8(D) is an internal matter to be settled by the two SVN parties. In addition to the provisions of Article 8(b) concerning military personnel of the two SVN parties, these matters should be settled by the two SVN parties. Here, we only mention military personnel of the parties, of which there are military personnel of the two SVN parties. Thus, this question is the responsibility and function of the FPJMT and needs our discussion. Raising the question of rejecting this discussion in the FPJMT meeting, means that a delegation does not understand Article 8(b) and does not realize the full responsibility of the FPJMT. These are some ideas concerning our main viewpoint on Article 8(b). We see here a clear difference in the viewpoints of all parties. If we all do not have a united understanding of this point, it will be difficult for us to reach agreement on other points. These are comments on our views concerning Article 8(b), and we consider our views to be in conformity with Article 8(b).¹²

LTC Son's remarks were dismissed as yet another attempt to delay the negotiations and any hope of ever reaching agreement on graves, memorials and cemeteries was abandoned by the US Delegation.

CHAPTER 4

SAIGON/HANOI LIAISON FLIGHTS

Initial Procedures Established

On March 28, 1973 the DRV Delegation to the FPJMC requested of the US Delegation that a liaison flight be established between Hanoi and Saigon using a US or DRV aircraft. Previous efforts at establishing the flight using DRV and/or RVN aircraft had proved unsuccessful due to RVN and DRV refusal to allow each other's aircraft into their respective countries. On March 30, the USDEL, FPJMC informed the DRV that the US would support weekly liaison flights to Hanoi on an interim basis until the DRV and RVN agreed on reciprocal liaison flights or some other procedures.

The US decision to provide liaison flights was based on several factors. First, it was felt the good-will generated by this service would have a positive bearing on DRV attitudes toward cooperating with the US to resolve our MIA's. Second, the DRVDEL had a legitimate liaison requirement with its government in the casualty resolution mission. Finally, since PRG-held US prisoners of war were released in Hanoi, the probability of the PRG utilizing this flight and gathering information on US prisoners who died while in captivity of the PRG appeared

promising.

As the JMC departed in the final days of March, the Chief of the USDEL, FPJMT was briefed on the agreement that General Woodward had reached with the DRV for the US to provide the flight on an interim basis. As mentioned earlier, at the first JMT meeting on April 3 the US outlined the procedures for the flights and the first one began on April 7, 1973.

The procedures outlined at the first JMT meeting were little more than an announcement of the time the aircraft was scheduled to depart from Saigon and return from Hanoi. No mention was made of how many members from which delegations could make the flight, South Vietnam exit and entry procedures or restrictions on personal baggage or cargo. If time had been devoted to some of these issues prior to initiating the flight, many hours of bitter confrontations and misunderstandings between all four delegations might have been avoided. Not that confrontations and misunderstandings shouldn't be expected among parties that had been enemies for so many years past, but the DRV used the issue to their advantage at the expense of US and RVN relations and as a lever to gain negotiating concessions from the US.

Problems and Temporary Solutions

The first liaison flight on April 7 went smoothly enough. The DRV sent five delegates to Hanoi and a US Liaison Officer and US interpreter accompanied the flight.

There was some difficulty just prior to the flight departure. The RVN airport authorities required that all delegates fill out forms stating name, rank, destination and purpose. This requirement had not been discussed and was unexpected by both US and DRV delegations. The DRV delegates refused to fill out the forms claiming their diplomatic privileges outlined in the Paris Agreement required no such action. They further claimed that the procedure had neither been discussed nor agreed upon in the JMT. The RVN airport authorities simply stated that unless the forms were filled out, the DRV delegates couldn't depart the country. Desirous of accomplishing the mission, the US Liaison Officer filled out the forms for the DRV delegates and the flight departed only one half hour late.

During the next few flights similar problems developed which caused several hours of delay before flight departure. One confrontation developed when the RVN airport authorities refused to allow the PRG delegates to deplane in Saigon. The RVN claimed the delegates were not members of the FPJMC but members of the TPJMC. The RVN authorities had not objected to the PRG delegates going to Hanoi, but only raised their objections when the flight returned to Saigon. The US was thus faced with the problem of what to do with four PRG delegates on an aircraft that was destined for Clark AFB in the Philippines via Bangkok, Thailand. Several

hours passed before the RVN authorities allowed the PRG delegates to return to their headquarters.

In all of these incidents, the US Delegation was forced to act as mediator to settle confrontations between our ally RVN and our negotiating adversaries the PRG and DRV. In almost all cases, the result was a bitter confrontation between US delegates and RVN airport authorities. And, in most cases, the RVN authorities were forced to back down from their demands.

The situation certainly did nothing to help relations between the US and RVN delegations. And it may have reinforced the DRV/PRG belief that the US had full control over the RVN Delegation at the conference table.

In an attempt to solve the recurring administrative problems associated with the flight, the USDEL sent a memorandum to all delegations on May 9, 1973.

1. In a letter of 30 March 1973, the Chief, US Delegation, Four-Party Joint Military Commission, approved a request from the Chief, DRV Delegation, for US aircraft to support a weekly liaison flight between Saigon and Hanoi on a temporary basis. This arrangement was an interim measure pending RVN and DRV agreement on the modalities for permanent liaison flights between Saigon and Hanoi.

2. The US Delegation has re-evaluated the flight procedures based on experience gained from the flights already flown. As a result of this re-evaluation, the following procedures will apply to all future liaison flights provided by the US.

a. The primary purpose of these flights is to allow the DRV Delegation to maintain liaison with its government. Other passengers sponsored by any FPJMT delegation will be allowed to utilize the flight on a space-available basis subject to the following provisions.

b. The passenger lists of all delegations must be furnished the US Delegation, with information copies to other delegations, 48 hours prior to scheduled departure time. Two separate lists must be prepared, one for the Saigon to Hanoi portion and one for the Hanoi to Saigon portion of the flight.

c. The Chiefs of the RVN and DRV delegations, as the representatives of the governments controlling entry into the respective aerial ports of Tan Son Nhut and Gia Lam, will approve all passenger lists. Approval of these lists will be assumed by the US unless written notification to the contrary is received by the US Delegation, with information copies to the other delegations, not later than 24 hours prior to the scheduled departure time. Written notification, denying access to the respective aerial port should include the name of the individual passenger involved and the reason for denying access to the aerial port.

d. The US Delegation will furnish liaison officers and interpreters for each flight. The US liaison officers shall represent the US Delegation on all matters pertaining to the flight and serve as liaison between passengers and aircraft crew.

3. The US Delegation will continue previously established procedures of providing the other delegations with the approved passenger list and scheduling information 24 hours in advance of scheduled departure.²

The memorandum was one of the better negotiating maneuvers conducted by the USDEL during the first year. Because the US controlled the flights the strategy adopted was that the procedures involved were not subject to negotiation. The paper was not submitted at one of the regular plenary sessions, but delivered direct to the Secretaries of each delegation at their headquarters. By spelling out the responsibility of the RVN and DRV delegations to approve or disapprove the passenger lists, the USDEL had removed itself from having to mediate RVN and DRV differences.

The one issue not covered was whether or not PRG delegates should be allowed to make the flight. The RVN position was that the PRG Headquarters was in Loc Ninh and they had no reason to communicate with Hanoi. The PRG claimed that they needed to go to Hanoi to gather information concerning US and RVN MIA's. Urged by the USDEL, the RVN Delegation insisted that their representatives also be allowed to make the trips to Hanoi; the RVNDEL argued that this move would make the flight truly a Four Party matter. The positions very quickly became clear and simple. The DRV would allow RVN delegates to go on the flight if RVN would allow PRG delegates to go. Early in June, all four delegations began sending representatives on the flight.

Since the US was in complete control of whether or not a flight was provided, they were in a position to dictate procedures rather than negotiate. The procedures established were both reasonable and acceptable to the other delegations. Supplemented by reciprocation on the part of the DRV and the RVN, on an issue mutually advantageous to all parties, a unanimous agreement was reached. Unfortunately, the next event which occurred concerning the Saigon/Hanoi liaison flight did not follow the same pattern.

A Crisis Develops

On June 8, during the return flight from Hanoi to Saigon, what was later assumed to have been a faulty DRV

document destruct device produced a fire aboard the aircraft. Seven persons were burned and the aircraft received minor damages.

The events which followed this incident are excellent examples of several factors which should be of significance to the student of negotiations with the DRV. The incident is the only example of US and DRV negotiations (at the JMT level) in a crisis situation and points out what this writer believes to have been several negotiating mistakes made by the US Delegation.

The first mistake made was the fact that the USDEL allowed the situation to reach crisis proportions in the first place. The ill-fated flight had gone smoothly up until mid-afternoon on June 8. Major Ed Zobrist, Operations Officer for the USDEL and US Liaison Officer for the trip, relayed a message from the aircraft through the Tan Son Nhut control tower to the USDEL Headquarters. Major Zobrist's message indicated that a "small explosion and fire" had occurred aboard the aircraft; "seven persons had been slightly injured", and the aircraft should arrive in Saigon at approximately 1900 hours. A subsequent message from the USDEL to the aircraft reconfirmed that the injuries were slight, mostly first and second degree burns. The damage to the aircraft appeared to be only a few seats that had burned and everything else was under control.

A short time after the initial and subsequent

messages had been received, COL Tombaugh called a meeting of key USDEL officers to discuss what action should be taken prior to the arrival of the flight. It is important at this point to note that COL Tombaugh had only been in Saigon for a few days. He had attended his first negotiating session only the day before and had only assumed command of the Delegation the morning of June 8. COL Russell was busy making last minute preparations for his departure on the same day and didn't even know of the situation until shortly before he boarded an aircraft enroute to Clark AFB.

COL Tombaugh informed the group of the situation and asked for recommendations as to what action should be taken. The consensus of feeling was the primary concern to insure that the injured passengers on board were given medical care as soon as they arrived. All of the US members expressed concern about Mrs. Nguyen Thi Ngoc, a female Vietnamese interpreter for the USDEL who was on the aircraft and was listed as one of those injured during the fire. The USDEL had two female interpreters and Mrs. Ngoc was the first one who had been allowed to make the trip to Hanoi. Some discussion was given to the drafting of a press release, but it was concluded that this could be done after the aircraft had arrived and all the facts known. The meeting concluded with COL Tombeugh directing that arrangements be made to have ambulances at the airport to transfer the injured to the

hospital. It was further decided that all three of the Vietnamese delegations be notified so that arrangements could be made to provide medical care to the injured members of their delegations. Little thought was given to future implications of the incident.

If the actions taken up to this point had been closely guarded and discretely carried out, events might have gone differently. The USDEL felt it was necessary to notify the DAO and the AMEMB. The RVNDEL passed word of the incident throughout the TPJMC and possibly to the highest levels in the ARVN chain of command. The result of keeping everyone informed was an estimated one thousand people at Tan Son Nhut when the aircraft arrived. In addition to the normal contingent which usually greeted the return flight (representatives from each of the four parties, RVN security guards, airport authorities, and ICCS representatives), members of the US and foreign press were on hand as well as DAO and AMEMB personnel, ambulances, nurses and doctors and countless hundreds of curious onlookers. This fact alone made an orderly conclusion of the flight almost impossible.

What happened next as the plane was taxiing to the debarkation point, probably more than any other thing set the course for the future of the liaison flight for the next two months. The "explosion" had occurred when a small handbag carried by one of the DRV members on the flight suddenly burst into flame. A small missile popped out of the bag and literally flew around the cabin of the aircraft

spraying a "white phosphorus" substance which burned seven people and set fire to a few seats. One of the US airmen on board grabbed the bag and threw it to the rear of the aircraft where another airman extinguished the blaze with a fire extinguisher. The bag remained in the back of the airplane, unexamined, until the plane touched down at TSN Airport. During taxiing, a DRV soldier walked back to the rear of the plane, picked up the burned handbag and placed it inside a suitcase belonging to the DRV Delegation. This move had gone almost unnoticed except for one US crewman who saw the incident.

As soon as the aircraft came to a stop, hundreds of people converged and the confusion began. Major Zobrist hurriedly briefed COL Tombaugh on what had happened and reconfirmed that there were no serious injuries. Mrs. Ngoc was whisked away to the hospital and the members of the RVN Delegation debarked the plane and disappeared. Fifteen to twenty minutes had passed before each of the communist delegates on board had briefed their respective delegations as to what had happened. The situation was confusing, but still not critical. The PRG and DRV delegates were preparing to disembark and return to their headquarters. Then, almost as a "by the way" comment, the crewman who had seen the concealment of the burned handbag told a member

of the USDEL what he had observed. The word spread throughout the US and RVN Delegations as well as the RVN security guards who were surrounding the airplane.

It was at this point that the emotional strain of the situation over-rode any practical decisions. The frustration over the deadlock at the negotiating table and the lack of progress in resolving the missing in action was released in the form of anger and animosity by the US and RVN toward the DRV delegates. The feeling among the USDEL is best described by one member who expressed to the author, "The rotten bastards tried to blow up our airplane and now they're trying to hide the evidence."

At this point, Lieutenant Colonel Lawrence Robson, USAF, Deputy Chief of the USDEL decided that a full investigation must be made, on the spot, to determine the cause of the fire. To do this, the DRV suitcase must be opened and the handbag examined. The RVN Chief of Security decided that all of the DRV suitcases and cargo must be examined because the DRV were obviously trying to smuggle some sort of new weapon into South Vietnam. When Colonel Do, DRV Chief of Delegation, was faced with these demands he violently denied that an incident had even occurred. He claimed that the whole affair was a US/RVN fabrication designed to embarrass his delegation, and demanded that the aircraft immediately return to Hanoi where DRV authorities would make any necessary

investigation.

The next few hours consisted of bitter accusations and polemic exchanges among all four delegations. Tempers flared and the situation deteriorated rapidly. It was well after midnight when the climax occurred. The US had dropped its demand for an immediate investigation, COL Do was insisting that his delegation be allowed to return to Camp Davis, sans luggage inspection, and the RVN insisted that no one could deplane until all the cargo had been examined. The US was trying to constrain RVN from inspecting the DRV luggage because it was felt such a breach of diplomatic privilege would seriously endanger the continuation of the negotiations. COL Do stated his people were deplaning and returning to their headquarters. COL Phong, the RVN Security Chief said if the DRV got off the plane, he would shoot them. Almost simultaneously with COL Phong's remarks, the sounds of loaded magazines and locking M-16 chambers echoed around the airplane. Colonel Do's reply was to go ahead and shoot. He was calling his people off the plane.

Indeed, a crisis had developed and it was in no small measure attributable to many of the decisions made by the USDEL. To lay the blame on COL Tombaugh would be unfair. He had hardly recovered from "jet lag" when the incident occurred. He was almost totally dependent on the recommendations of his staff.

Why, when the large crowd had gathered at TSN

Airport, was it necessary to bring the plane to where everyone was assembled? The craft could have easily taxied to a remote part of the runway where only essential personnel would have been involved. Why did the US insist on an immediate on-the-spot investigation? There was no order from any higher headquarters to accomplish such an investigation. The pilot of the aircraft had not ordered one. It is doubtful that the DRV had purposely tried to sabotage the aircraft while they were still on the plane. What would be accomplished by proving that the DRV had caused the incident? There was already enough eyewitness accounts to validate any news releases and gain any propaganda value from the incident. The DRV, as they had done in the past, could easily deny the results of any US investigation.

What can be attributed to COL Tombaugh is the prevention of what almost was a major tragedy with far-reaching international implications. Colonel Tombaugh pulled Colonel Do away from the crowd, convinced him that nothing would be gained by having his people shot and persuaded him to agree to a "status quo" while negotiations were begun to reach a solution. It was well after 3:00 AM, June 9, when all four Chiefs agreed to meet in special session at 8:00 AM to try and reach a solution. It was agreed that the DRV and PRG delegates would remain on the plane with their luggage and RVN security guards would remain in place to insure no one left or opened the DRV suitcase in question.

COL Tombaugh had averted what could have been a very serious incident. However, the USDEL was once again placed in the position of mediating the differences between ally and adversary.

The Art of Making Concessions

For the next three days, the JMT met in plenary session to try and reach a solution on how to conclude the June 8 liaison flight. These sessions were some of the most difficult and arduous negotiations conducted by the USDEL. One of the meetings lasted for more than 14 hours. The situation was made even more difficult when the RVN security guard refused the DRV/PRG permission to bring food and water to their delegates being held on the aircraft. COL Tombaugh had to request AMEMB help in persuading General Hiep, Chief of the TPJMC, to allow food and water to be supplied. At the negotiating table, the US returned to its position that an investigation be made and the contents of the burned handbag be examined. The RVN insisted that all cargo and luggage be inspected. The PRG insisted that its personnel be allowed to return to Camp Davis. The DRV again demanded that the aircraft be returned to Hanoi.

As might be expected, the DRV demand was completely unacceptable. Not only was the proposal unacceptable to the USDEL, but by this time directives from CINCPAC and USSAG made it clear that under no circumstances would the plane return to Hanoi. It is doubtful that the DRV ever expected the plane to return to North Vietnam. But the

tactic, one so often used by the DRV, was to demand twice as much as they expected, concede their original demand and reluctantly settle for the real objective to be gained in the first place. The ultimate DRV objectives in this case appeared to be to get their people back to Camp Davis, prevent an inspection of their luggage and cargo, and extract themselves from an already embarrassing situation. All three of these objectives were accomplished.

When it became apparent that the US would not back down on its demand for some sort of investigation, the DRV sought to create conditions in which the investigation would be as nonconclusive and least incriminating as possible. This, too, they accomplished.

The first part of the agreement reached at the conclusion of the three day "marathon" concerned the investigation of the burned handbag. A US demolitions expert, flown in from Thailand, was allowed to go aboard the aircraft and examine the bag. He was not allowed to open the DRV suitcase; that was done by a member of the DRV Delegation. The examination could last no longer than five minutes. Nothing could be taken from the bag. Upon conclusion of the examination, the bag was to be replaced in the suitcase and the suitcase locked. The investigation was to be observed by one member from the USDEL and one member from the DRVDEL. The RVN and US had to agree that no members of the press would be at the aircraft.

The actual investigation lasted less than five

minutes. The contents of the handbag included a few articles of clothing, three pieces of broken glass covered with an unidentified white, powdery substance and the ashes of some burned papers. The final report concluded that the fire was started by what was assumed to have been some type of document destruct device.

The remainder of the agreement concerned returning the PRG and DRV delegates and their cargo to their headquarters at Camp Davis. The luggage and cargo were to be loaded on a truck provided by the US. A proposed RVN 2½ ton truck was specifically prohibited by the DRV. Once the cargo was loaded, one member from each delegation was to follow the truck to Camp Davis. Once inside the compound, the DRV delegate phoned back to Tan Son Nhut to confirm that the cargo had arrived safely and had not been stopped and inspected. At this point, the DRV and PRG delegates agreed to leave the airplane (the RVN position was that at this point, the DRV/PRG were given permission to leave the aircraft) and return to their headquarters. The whole operation took less than 30 minutes.

The DRV had won a negotiating victory. The US had achieved an irrelevant "face-saving". The RVN had been humiliated.

The Flights Are Halted

Prior to reaching agreement for concluding the June 8 flight, the US announced that the flights would be

stopped until the USDEL had reconsidered the existing flight procedures with a view toward preventing a similar recurrence. Although all members of the US team were in complete agreement, the move was not a unilateral action on the part of the USDEL. On June 9, the Commander of USSAG sent a message expressing concern for the safety of US aircraft and crew on future liaison flights. COMUSSAG requested the FPJMT develop procedures whereby assurances would be provided by competent authorities that hazardous materials would not be carried aboard the aircraft.³ It was left up to the USDEL exactly in what form the "assurances" were to be given.

Paragraph 2 of the return message to COMUSSAG reveals the tactic that the USDEL chose to pursue:

IN ACCORDANCE WITH THE ABOVE REF CH USDEL PLANS TO PRESENT AN OFFICIAL US DELEGATION MEMORANDUM TO THE CHIEFS OF THE OTHER DEL'S AT THURSDAY'S REGULARLY SCHEDULED MEETING (14 JUNE 73). THESE ARE USDEL ADMINISTRATIVE PROCEDURES AND ARE NOT CONSIDERED A SUBJECT TO BE NEGOTIATED OR AGREED ON BY ALL FOUR PARTIES. (emphasis mine)⁴

The official USDEL memorandum was released on June 14 and is reproduced, verbatim, below:

MEMORANDUM FOR: CHIEFS OF THE OTHER DELEGATIONS
SUBJECT: Saigon--Hanoi FPJMT Liaison Flight Procedures

1. Reference our memorandum, dated 9 May 1973, subject as above.

2. The United States Government is gravely concerned for the safety of passengers and crews of the US aircraft used to support the weekly liaison flights between Saigon and Hanoi.

3. Accordingly, the attached Safety Certificate will

be used on all future flights as an additional procedure to those established in reference above. The senior member of each Delegation participating in the flight will execute the form on behalf of his Delegation's passengers prior to boarding the aircraft. The US Delegation representative will furnish the blank forms. After the form has been satisfactorily completed it will be returned to the US Delegation representative. Any questions concerning the execution of the form should be directed to the US Delegation representative.

4. Refusal or failure to complete and sign the certificate will result in denial of permission to place the baggage and cargo on the aircraft.

5. The US Delegation will, on a continuous basis, review the procedures used on these flights to insure the highest possible degree of flight safety.

I Incl
as

(signed)
LAWRENCE ROBSON
LT COL, USAF
Acting Chief

The text of the attached Safety Certificate was as follows:

SAFETY CERTIFICATE

I, _____, being the senior member of my Delegation on the FPJMT Liaison Flight from _____ to _____ on _____, and acting as the representative of the Chief of my Delegation, do hereby make the following declaration: I hereby certify that all items carried by any individual of my Delegation, or in any and all baggage and cargo placed aboard this aircraft by members of my Delegation, or for the use of members of my Delegation, or in any way connected with my Delegation, are completely free of any explosives or explosive devices; incendiaries or incendiary devices; flammable liquids, flammable solids; corrosive liquids; compressed gases; or any other dangerous material or substance (except for small quantities of small arms ammunition carried by guard personnel of my Delegation) which might endanger the welfare and safety of the aircraft, its passengers and crew, except as specifically noted below in my handwriting.

I understand that approval to load on the aircraft the excepted items listed above is within the exclusive prerogative of the aircraft commander.

Name _____

Rank _____

Delegation _____

Date _____

Place _____

The move to again dictate procedures and insist upon the signing of a safety certificate was another mistake made by the USDEL in handling the bomb incident. The reasons for this mistake are several. First of all, the US assumed it could again dictate the new procedures as it had done earlier when the flights were initiated. This might have been a valid assumption except for some grave oversights. The first set of "procedures" was really never officially accepted. The DRV/PRG Delegations simply complied with them. There was no requirement to sign any type of public record. The DRV had refused even to write down their names when asked to do so by the RVN security guards when the flights were first begun. Why should they be expected now to sign a rather strongly-worded safety certificate? In addition, as stated many times in pri-

vate session by the DRV to US negotiators, to sign the certificate would imply that they had done something wrong in the first place. The DRV position was that they had done nothing wrong. They supported their position by stating that there had never been any conclusive results determined by a unanimous FPJMT investigation. They were right. They had precluded any such investigation in the previous negotiations. The investigation that was conducted, according to the DRV point of view, was simply an inconclusive, unilateral action on the part of the USDEL. The DRV had simply shown its "goodwill" by agreeing to observe the USDEL's unilateral action.

DRV Reject Safety Certificate

The DRV received the memorandum with no comment indicative of whether or not they would sign the certificate. Anticipating DRV reluctance, the USDEL delivered the same memorandum to the Polish and Hungarian delegations to the ICCS.

It was hoped that some pressure could be applied to the DRV if the communist-bloc ICCS representation agreed to sign the certificate. The Hungarians were suspicious and agreed only if the DRV agreed. The Polish Delegation accepted the certificate without question.

On the day of the next regularly scheduled flight (June 22), all parties were present at TSN at the appointed time. The USDEL staged somewhat of a performance for the DRV by having the safety certificate signed in full view

of the DRV delegates. Particular attention was made to insure that the Polish delegates signed the certificate standing next to the senior member of the DRV Delegation. The performance was splendid. It didn't work.

The DRV refused to sign the certificate. Colonel Robson and Lieutenant Colonel Dai, DRV Deputy Chief of Delegation, argued bitterly about the merit of the certificate. After more than an hour, the USDEL cancelled the flight and everyone returned to their respective headquarters. The US insisted that the certificate be signed. The DRV refused. The battle which was to last for the next eight weeks had begun.

USDEL Adopts An Unsupportable Position

The formal plenary sessions of the JMT quickly returned to the Draft Minute of Agreement on implementation of Article 8(b). Although the DRV often referred to the issue as a lack of honest intent on the part of the US to fully implement the Paris Agreement, the negotiations to solve the liaison flight problem were conducted on a bilateral basis between the US and DRV.

The private negotiations to resume the flight were held on three different levels. The Chiefs met on several occasions. The Deputy Chiefs met on several other occasions and the two liaison officers met two to three times a week. The US position remained that the safety certificate had to be signed. The tactic used was an open, honest and frank appeal to the DRV that the certificate

must be signed so the flights could be resumed. The argument advanced was that this was routine procedure on all US aircraft. Further, that there was a sincere concern for the safety of the flight. And, finally, that the US sought no trickery or propaganda value in requiring the certificate be signed. The DRV continued to refuse.

Another factor which weakened the US negotiating position, at least in the eyes of the DRV, was the Paris Joint Communique issued on June 13. The four parties signatory to the Agreement had met earlier in Paris to try and make some progress on many provisions of the original Agreement which had not yet been implemented. The Communique was issued much in the same format as the original Agreement and was intended to supplement and clarify the provisions of the original document. Paragraph 8(E) of the Communique restated paragraph 8(b) of the original Agreement and added one more sentence: "For this purpose, frequent and regular liaison flights shall be made between Saigon and Hanoi".
5

There was no mention made as to who was to provide these flights. Regardless of this fact, the DRV interpretation was very clear. The US had provided the flights in the past and was now required to continue in the future. The US had unilaterally halted the flight. With the issuance of the Joint Communique, the US was now in open violation of the Paris Agreement.

As the private negotiations continued, the DRV

arguments remained consistent. Colonel Do stated early in the talks that he would never sign the safety certificate. The DRV asked, "If the certificate was such a routine procedure, why wasn't it used when the flights were first begun?" COL Do, both in private and at the negotiating table, told Colonel Tombaugh that he gave his word that no dangerous material would be carried aboard the aircraft. He felt this was sufficient. The USDEL did not.

The DRV followed no particular or identifiable tactic concerning this issue. Rather, they stood on their basic position on negotiations as had been done in Paris four years earlier. In addition, at this point the DRV were beginning to enjoy an ever-increasing military advantage in the countryside. The DRV would not be coerced into doing anything. They could not sign the safety certificate. The USDEL failed to recognize this fact.

The last factor which the USDEL failed to consider in halting the flight was that the continuation of the flights was more in the interest of the US than the DRV. There had been no MIA information received as a result of the flight. But there certainly wasn't going to be any information if the DRV had no means of communicating with Hanoi. The liaison flight was the only timely and private link the DRVDEL had with their government.

The USDEL did have the support of COMUSSAG. But the support that was needed was that from Ambassador

Martin and the AMEMB. That support began to wane rapidly as the deadlock continued. After only a few weeks of absolute insistence on the acceptance of the US position on the safety certificate, the USDEL found itself in an untenable position. The USDEL had issued a non-negotiable demand to the DRV which the DRV could not accept. And, the USDEL had adopted a position it could not support. If the US had been forced to capitulate on its position by the AMEMB, a decision which was becoming more and more possible, it is likely that US credibility would have been seriously damaged. COL Tombaugh realized this fact and directed his staff to search for an alternative solution.

The Flights Resume

The alternative reached was worked out in the private negotiations between the two Liaison Officers. The US published a new memorandum which listed all of the hazardous material contained in the original safety certificate. The memorandum requested that all delegations insure that no material of the kind mentioned was carried on any future liaison flight. The memorandum was distributed with a cover letter requesting acknowledgement and written receipt of the "new procedures". Signing for a piece of correspondence was of routine nature to the DRV. Both the DRV and PRG required a signature for any documents passed to the other delegations. The new proposal was acceptable to the DRV and supportable by the US based on the precedent estab-

lished in the exchange of correspondence. The new proposal was submitted during the last few days of July. The flights resumed on August 3.

The epilogue to the June 8 bomb incident occurred on August 10, the second of the resumed liaison flights. It was on this occasion that CPT Hao (the DRV Liaison Officer who was instrumental in drafting the final solution) and the author made the trip to Hanoi. Just as the aircraft touched down in Hanoi, CPT Hao handed the author a sealed envelope. The envelope was addressed, not in the normal manner to the Chief of the USDEL, but to the author personally. CPT Hao requested that the envelope not be opened until the return trip to Saigon. With a polite smile and without further comment, he disappeared with the other members of his delegation. The envelope contained a safety certificate, correctly filled out and signed by CPT Hao.

No attempt has been made in this paper to analyze CPT Hao's actions. The incident was completely out of character with the other members of the DRV Delegation. The incident is offered as an insight into the human side of the DRV negotiators. The conclusions, if any, are left to the reader.

CHAPTER 5

REPATRIATION OF DIC'S--RESOLUTION OF MIA'S

The Strategy of Reciprocation

The repatriation of those prisoners who died in captivity (DIC's) and the resolution of more than 1400 persons missing in action (MIA's) were the two issues of highest priority to the USDEL. No MIA information was ever received and only 23 of 70 DIC's were returned. The small success achieved proved to be a painful and frustrating experience for the US Delegation.

Although the two issues were separate and distinct, the efforts to accomplish the tasks were conducted simultaneously throughout the existence of the JMT. The negotiation of the two issues produced several related issues which surfaced the DRV/PRG strategy for the accomplishment of their goals in the FPJMT, if not for their ultimate objectives in South Vietnam.

The issues involved were varied and complex. The strategy used by the DRV/PRG became very clear. It was a strategy they held throughout the negotiations concerning return of the DIC's and information about MIA's. If the US wanted to resolve the status of MIA's or repatriate DIC's it must be willing to pay the price. Reciprocation was the only manner in which the other side would deal.

Unfortunately, the reciprocation did not involve the exchange of information concerning DRV/PRG dead and missing. The concessions demanded were either not within the authority of the USDEL to grant or counter to US policy of continued support to the Saigon government. The situation placed the USDEL in an almost impossible position from which to negotiate. The few possibilities that arose where the USDEL could, in fact, reciprocate were eliminated by policy decisions from Ambassador Martin.

Early Optimism

When the FPJMT negotiations began, the USDEL had two lists of American POW's who had died in captivity. These lists had been turned over to the US in Paris when the Paris Agreement was signed. One list, containing 47 names (41 US and 7 foreign nationals), had been prepared by the PRG. The other, with 23 names, had been prepared by the DRV.¹ During the early meetings in April 1973, both DRV and PRG delegations indicated a willingness to return the DIC's and exchange information concerning MIA's. On 10 and 11 April, the PRGDEL stated that it was verifying its DIC information and that repatriation would be on an incremental basis due to the scattering of grave sites. The PRGDEL also revealed that they had requested local PRG officials to furnish additional information concerning US MIA's and promised to forward this information as soon as received.² The DRV gave similar assurances and, in a private meeting between COL Do and

COL Russell on 23 April, the DRV proposed an FPJMT visit to US DIC grave sites in Hanoi. At this same meeting, COL Do stated that the DRV was also "willing to allow the families of the DIC persons to visit the graves, if requested". COL Do stated the FPJMT visit could occur sometime after May 1.

On May 3, at a break during the regularly scheduled plenary session, the DRV gave the date of the grave visit as May 11. On May 7, the DRV press officer told a UPI reporter that the FPJMT would visit the graves and invite some relatives of US DIC's to observe recovery of the bodies. He did not say how many US relatives would be invited or on what basis invitations would be issued.⁴ This announcement by the DRV is a good example of how they used the press to their advantage on many occasions.

When the issue of relatives visiting graves was first raised, the USDEL had made it clear that it was flatly against any such policy. COL Russell had told COL Do that "whether families of the DIC person visit the graves in NVN is an issue between the DRV and the individual family and not a subject for negotiation".⁵ The US had further stressed their policy to exhume all remains and return them for laboratory analyses to insure positive identification. When the USDEL had refused to consider the issue, the DRV issued their invitation through the press.

The final US position on the issue was that grave visits by US relatives were outside the scope of Article

8(b); and that the issue was between the DRV and the individual families and not subject to negotiation.⁶ The position appeared to be valid. First of all, it seemed most likely that the DRV would have used the occasion as a tool for favorable propaganda. More important, no matter under what circumstances the visits occurred, the DRV and PRG could have used the occasion as a precedent to make their point concerning visits of relatives to PRG graves in SVN.

Grave Visits in NVN

The first visit made by the FPJMT occurred on May 11. After arriving in Hanoi, all four parties were taken to the Van Dien cemetery approximately 15 miles southwest of Hanoi. Three graves were viewed which allegedly contained the remains of US servicemen. Two were identified as having died in captivity while the identity of the other was unknown. Despite persistent questioning, the DRV could not, or would not, identify the last individual. They would only state that he was an aircraft crew member and not carrying any identification when he was found.⁷

In the area where the graves were located, there was evidence of recent excavation of other remains. When questioned, the DRV officials stated that there had been graves of other US DIC's in the cemetery. The DRV officials stated that, according to Vietnamese custom, the remains had been exhumed and moved after having been buried for

three years. The USDEL tried to confirm the custom in either North or South Vietnam. No evidence could be found and no other reason was ever given for moving the remains.

The USDEL asked a number of questions relating to recovery of the remains. The DRV officials would not respond directly to the questions, but instead, cited the need for discussion and complete agreement on "procedures and modalities" by the FPJMT in Saigon. The DRV reference to "procedures and modalities" was first perceived by the USDEL as pertaining to the specifics of the repatriation of the remains. It wasn't until two weeks later that it became clear as to how the DRV perceived "procedures and modalities".

One week later, on May 18, the DRV again hosted a visit to the cemeteries in North Vietnam. This visit was made to the Ba Huyen Cemetery, some 30 miles northeast of Hanoi. This time the team was shown 22 graves. Twenty-one of the graves allegedly contained the remains of US servicemen. The other was reported to be that of a Thai National.⁸ One of the American graves was reported to contain the remains of two Americans. The DRV officials explained that the original graves of the two had been damaged by US bombing raids. According to the officials, the damage was so extensive that the remains could not be distinguished from each other. Each of the graves was marked with a small wooden headstone. Painted on the markers were a Vietnamese name, the initials of the POW and

the date of death. The DRV official explained that the Vietnamese name was used to disguise the graves from local inhabitants who might, "because of their hatred of the Americans", try to destroy the remains. The initials on the markers corresponded with the list of DIC's given in Paris. An extensive effort was made by the USDEL to determine some association with the Vietnamese name to the American name of the POW. No correlation was ever made.

Prior to making the second trip, the USDEL had received assurances from the DRVDEL that the local officials in Hanoi would be prepared to discuss all details concerning the release of the remains. Instead, the reference to "procedures and modalities" was again raised by the local officials in Hanoi and all questions were referred to discussion by the FPJMT in Saigon.

At the next FPJMT plenary session on May 22, the USDEL proposed discussion of DIC repatriation procedures. The DRVDEL issued a protest statement condemning continued US reconnaissance flights over the DRV, unfavorable working conditions and inadequate logistical support for the DRV and PRG delegations.⁹ The DRV then made it clear what meaning was attached to "procedures and modalities". The DRV stated that when the four parties had signed the Agreement outlining the "procedures and modalities" for overall implementation of Article 8(b), repatriation and exchange of information could begin. The DRV demanded immediate acceptance of their original Draft Minute of

Agreement on the implementation of Article 8(b) to include the construction of graves, memorials and cemeteries and freedom for relatives of the dead to view the graves.

The DRV strategy of reciprocation had developed. It would appear that the tactic used could best be described as the "stick and carrot" approach. The US had seen the remains of their DIC's. The DRV had announced to the world their "humanitarian spirit and goodwill" in allowing the USDEL to visit the graves. The US could have the DIC's and get information concerning MIA's. All that was required was for the US and RVN to concede to the DRV demands for acceptance of their Draft Minute of Agreement. For the reasons cited in Chapter 3, the USDEL would not make that concession and the DIC/MIA issue was stalemated.

A New Demand

Shortly after the signing of the Paris Agreement, the RVN Government had made an effort to exchange "civilian detainees" with the PRG as required by Article 8(c) of the Agreement. Some detainees had been returned and then the exchanges were abruptly halted. At one of the exchange sites, a large demonstration had occurred resulting in rock throwing and fighting among the demonstrators. RVN and PRG accused each other of staging the demonstration and the exchange was stopped.

The resumption of the exchange was a major issue in the TPJMC but no progress had been made by August. On one of the August liaison flights, Lieutenant Colonel Tru,

DRV Deputy Chief, told Colonel Tombaugh that when the civilian detainee exchanges resumed, the US could expect "immediate and concrete actions" on the part of the DRV and PRG.
10 Later, the DRV defined their offer of "immediate and concrete actions" as repatriation of the DIC's and exchange of MIA information. The DRV had changed lures and cast their new bait directly at the USDEL.

The new DRV proposal was received without much optimism. The US position all along had been that they would not discuss any matter outside the provisions of Article 8(b). To link the DIC/MIA issue with Article 8(c) would have clearly been against this policy. Secondly, there was very little hope of persuading General Hiep, Chief of the RVNDEL, TPJMC, to make a unilateral release of civilian detainees to help the US in gaining the return of the DIC's.

A few days after the liaison flight, Colonel Tombaugh discussed the DRV offer with General Hiep. To everyone's surprise, General Hiep thought the idea was a good one and urged COL Tombaugh to accept the DRV proposal. General Hiep stated he would unilaterally release a "few" detainees to break the deadlock. Once the DIC repatriations began, he promised to release more.

RVN support of the DRV offer caught the USDEL somewhat unprepared. The decision whether or not to accept the DRV offer still had not been made. There was great concern for the implications of reversing past USDEL policy

of discussing nothing outside Article 8(b). The decision could well have led to additional DRV demands for concessions even further remote from Article 8(b). On the other hand, some members of the USDEL felt the reward was worth the concession, particularly in the light of the strong support shown by General Hiep.

The issue was presented to Ambassador Martin. The Ambassador flatly prohibited the USDEL from accepting the DRV offer. Mr. Martin was not overly concerned with the linkage of the two issues, or the implications of dealing outside Article 8(b). His primary concern was the US/RVN relationship. He felt that even by discussing the proposal with the TPJMC the US was applying undue pressure on General Hiep to accept the offer. Ambassador Martin gave strong guidance to the USDEL that the issue would not be mentioned again in the presence of RVN delegates. August turned into September and the negotiations remained at a deadlock.

A Chance For Reciprocation

On October 4, the PRG leveled a new charge at the USDEL. In that session, the PRGDEL condemned the US for not providing a list of PRG soldiers killed in action or a list of PRG soldiers captured by US forces and who subsequently died in captivity.¹¹ Both the PRG and DRV were quick to point out that they had provided DIC lists in Paris. The PRG asked, "Why hadn't the US fulfilled their

major obligation under the provision of Article 8(a)?"

Intensive research by the USDEL never revealed why the US had not provided DIC lists in Paris. But more importantly, the situation was viewed by the USDEL as an opportunity to initiate reciprocal action and hopefully begin a true exchange of information.

The US policy with respect to prisoners of war was generally different from those followed in previous conflicts in which the US was involved. Prisoners captured by US Armed Forces in SVN were interred in the ARVN prisoner of war camp system.¹² The transfer of POW's to the custody of ARVN was accomplished as provided in Article 12, 1949 Geneva Convention Relative to the Treatment of Prisoners of War (GPW). The responsibility for the application of the Convention to those prisoners rested on the RVN or the Power which accepted them. However, Article 12, GPW states in part:

Nevertheless, if that Power (the Power detaining the prisoners) fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such request must be complied with.

The USDEL interpreted this portion of Article 12 as leaving "some measure of residual responsibility" in the hands of the Power which captured the prisoners, i.e. ¹³ the United States. The USDEL also felt that the US Government had acknowledged this responsibility by using

US observers in ARVN POW camps, and by keeping detailed
14 data and follow-up information on the prisoners.

The RVN began to formally account for POW's interred in RVN camp systems in 1965. The 22nd US PW/CIIC Branch was activated in 1968, consistent with Article 122, GPW, in order to protect US interests in accountability of
15 US captured POW's. Contact was made by the USDEL with the 22nd US PW/CIIC and it was revealed that the unit had a list of 531 PRG/DRV soldiers who had been captured by US Forces, turned over to RVN and who subsequently died in captivity. While discussion in the USDEL continued as to the best way in which to take advantage of the new opportunity, the list of 531 PRG/DRV DIC's was requested and received in mid-October.

The RVN and PRG had also made no exchange of DIC information. On October 13, General Hiep outlined RVN's position. General Hiep stated that RVN, as host country, had the responsibility for providing the PRG with a DIC
16 list, including those captured by US Armed Forces. The General indicated he would use the list as a bargaining tool for obtaining information on US and RVN MIA personnel. He planned to release the list in small increments until a total of 30 names had been provided. If the PRG did not respond with MIA information, no further names would be released.

The US and RVN continued discussion on the release of DIC information. No final position had been

adopted but the USDEL felt that dependence on the RVNDEL to release all DIC information would restrict their negotiating position and fail to take advantage of the new opportunity offered by the PRG. In addition, the USDEL felt that by not controlling the list of 531 US captured DIC's, they would be vulnerable to criticism by the DRV/PRG for not abiding by Article 12, GPW. On October 22, the PRG forced a showdown between US and RVN.

Whether by coincidence or through good intelligence, the PRG timing was superb. While the US and RVN delegations were trying to settle the issue of who would release which names, the PRG requested specific information about PRG soldiers who reportedly died in captivity. The original memorandum was addressed to the US Delegation, entitled "Roster, PRG/RSVN Military Personnel Killed in Detention Camps", and contained a list of 12 names. The USDEL objected to the phrase "Killed in Detention Camps" and refused to accept the list. On October 24, the list was returned to the USDEL entitled, "Roster PRG/RSVN Military Personnel Who Died in Detention Camps", and contained 13 names.

Unsuccessful in persuading General Hiap to change his position, the USDEL submitted two proposals to Ambassador Martin. In submitting the issue to the Ambassador for decision, the USDEL pointed out the catalyst it hoped to create for an exchange of DIC/MIA information with the DRV and PRG. In addition, the Ambassador was

warned of the vulnerability of the US concerning possible violations of the Geneva Convention. The first proposal was that the US insist that RVN immediately release a complete "common" (US/RVN) list of PRG DIC's. If the RVN refused, which was the indication at the time, the USDEL proposed that it should release the list of 531 names directly to the PRG.
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On October 25, the Ambassador's decision was relayed to the USDEL:

The Ambassador thoroughly studied your memorandum and decided not to implement the recommendations contained therein. The Ambassador decided that the United States would accept a common list and would defer to the RVN on all matters regarding the use and release of that list.¹⁹

Ambassador Martin had indicated he was concerned about the sensitivity of the possible violations of Article 12 GPW. For that reason he directed that the list of 531 names be turned over to RVN immediately and that the issue would no longer be a topic of discussion among members of the USDEL.

It would appear then, that two opportunities had been available to the USDEL for recovering DIC's or gaining MIA information by October 1973. The first opportunity came when the USDEL could have accepted the DRV proposal of trading DIC/MIA information in return for a resumption of the civilian detainee exchange. The second opportunity was the release of the 531 names directly to the PRG. In both cases, the USDEL could not take advantage of the opportunities. In both cases, the U.S.

Government would not.

Of further implication was the uncomfortable position in which Ambassador Martin's decision left the USDEL. The US had to reply to the PRG's specific request for information by stating that all DIC/MIA information would be released by the RVNDEL. The USDEL requested that all further requests be addressed directly to the RVN Delegation and not the US Delegation. The response certainly did nothing to enhance USDEL negotiating credibility and quite possibly damaged it even further.

DIC's Returned From NVN

The period from October 1973 to March 1974 gives little indication of any particular event in the FPJMT which led to Hanoi's decision to return the 23 DIC's on March 6 and 13. Quite to the contrary, tensions heightened between the US and the DRV/PRG and reached an all time low in December. On December 15, three helicopters were engaged in a JCRC crash site investigation in Gia Dinh Province, 12 miles outside Saigon. As the helicopters landed the investigation team was ambushed by a platoon-sized element. The attacking force destroyed one helicopter, killed one American and one Vietnamese pilot and wounded seven other Americans and Vietnamese. The aircraft were unarmed and marked with orange stripes designating them FPJMT vehicles. The JCRC team was also unarmed and wore distinctive clothing with FPJMT orange markings on sleeves, pockets, hats and the back of their

fatigue jackets. The PRG and DRV had been notified in advance, of the details of the search mission and had been asked to participate. They had refused. The incident caused the cancellation of all future crash site investigations.

On December 18, COL Tombaugh delivered the most strongly-worded statement ever issued by the USDEL. Following the statement, the entire US Delegation walked out of the regularly scheduled session:

...As the members of the Team unsuspectingly disembarked from the helicopters at this clearly marked crash site, the foliage surrounding the rice field suddenly, and without any warning, erupted in a withering burst of small arms, automatic weapons, and rocket fire. Taken totally unaware, totally defenseless, one helicopter was quickly struck by a rocket and exploded. The search team leader, recognizing the grave danger of the situation, stood erect with his arms raised and shouted, in Vietnamese, that the Team was unarmed. Scorning this universally recognized appeal, the ambushers then directed their weapons toward this unarmed officer, and they murdered him. Here is this officer's jacket soaked in the blood of treachery. The shame of this act is unbelievable. (CH USDEL placed jacket of the officer who was killed in middle of conference table.) Only by his diversion and sacrifice were all but one other member of the mission able to escape being massacred. Yet two men lay dead and seven wounded, and it was blatantly obvious that the assassins had meticulously planned their castardly ambush. The outrage of this premeditated barbarity is beyond redemption.²⁰

The PRG denied any involvement in the ambush and claimed the entire incident was a US/RVN fabrication to embarrass their delegation.

On December 20, Henry Kissinger and Le Duc Tho met in Paris for a three hour session that received little publicity. It is not known if any kind of an agreement

was reached between the two men. It is known that Dr. Kissinger and Mr. Tho exchanged lists of demands. One of Kissinger's demands was for a full accounting of American servicemen missing in action.²¹ How much impact the meeting had on the DRV's decision to return the DIC's may not be known for many years. It seems probable that the DIC's were discussed as part of the demand for a full accounting of the MIA's. It would appear doubtful that the repatriation of the DIC's occurred as a direct result of the meeting. As will be suggested later, it appears that the meeting was but one of a series of events which led to the DRV decision to return the DIC's.

On December 21, another incident occurred which further decreased the possibilities of any hope of DIC repatriation. Bad weather forced the regularly scheduled liaison aircraft to conduct a low visibility landing at Gia Lam Airport. The pilot had to circle Hanoi several times in order to locate the runway. Upon landing, DRV airport authorities charged the pilot with exceeding maneuvering limits. They said that, should it happen again,²² the aircraft may be subjected to antiaircraft fire.

The ambush of the JCRC team was still an issue at the plenary sessions. Now, coupled with an implied threat to the safety of the liaison flight, the USDEL instituted a de facto cancellation of the flight until appropriate assurances could be given by the DRV that the aircraft would not be fired upon. The lessons from the bomb

incident had been well learned. This time there was no unilateral cancellation of the flight or issuance of non-negotiable demands. The USDEL simply invoked severely restrictive visual flight rules of a 5,000 foot ceiling and 5 mile visibility as a precondition before the flight would land in Hanoi. Three out of the next four flights were cancelled when the weather conditions were not satisfactorily met. The DRV claimed that the US was using the incident to avoid responsibility for providing the flights. Nevertheless, the DRV quickly gave the required assurance and, by mid-February, the liaison flights resumed the normal schedule.

Also during this period, several members from "The League of Families and VIVA (Voices in Vital America)" visited the DRV/PRG and demanded a full accounting of the MIA's.²³ Press releases from both these organizations were highly critical of both the communist delegations. In addition, the US Congress issued a joint resolution during this period proclaiming that no US aid would be given to the DRV until a full accounting had been made of all US MIA's.²⁴

Although the decision by the DRV to return the DIC's was revealed on the heels of the agreement to resume the liaison flights, there was never any linkage and no apparent connection.

On February 8 during a private meeting between the DRVDEL and USDEL, the DRV again proposed DIC repatri-

ation for a resumption of the civilian detainees exchange. The USDEL rejected the linkage. Then, without precondition, the DRV suggested that detailed discussion begin with local DRV officials in Hanoi concerning the repatriation of US DIC's. The decision had been made and events moved rapidly. On February 15 and 22 meetings were held in Hanoi and all details for the repatriation were completed. On March 6 and 13 all 23 of the US DIC's were returned through Thailand enroute to the United States.

Of particular interest are two conditions under which the repatriation took place. Both of these conditions are examples of the caution and purposefulness which characterized the DRV negotiators. First, the DRV maintained that the repatriation was not within the activities of the FPJMT but was only an exhibition of "goodwill" on the part of the DRV. The USDEL had constantly maintained that no agreement was necessary on "procedures and modalities" before repatriation could occur. "Goodwill" or not, had the DRV allowed the repatriation to occur as an FPJMT activity, the USDEL position would have been strengthened. The DRV recognized this fact and thus it would appear the reason for insisting the repatriation was not an FPJMT activity.

The other condition concerned the 24th grave of the unidentified airman shown to the USDEL in May. As discussions began in earnest, the USDEL assumed that all 24 bodies would be returned. On February 11 the DRVDEL

made it very clear that only the 23 DIC's would be returned. The DRV stated that the remains of the unidentified airman at Van Dien cemetery could not be returned because he had not died in captivity. The DRV had decided to return the 23 DIC's. This they accomplished. Nothing less, and nothing more.

The reasons why the DRV decided to return the DIC's will be discussed below. There is, however, evidence to suggest that the DRV did expect a positive response from the United States in return for the DIC's. At the conclusion of the repatriation ceremonies in Hanoi, COL Tu, now Chief of the DRVDEL, said to COL Tombaugh, "This is our first small step....now you (the US) must respond." The expected response never came. No PRC-held DIC's were ever returned; no MIA information was ever received and the FPJMT negotiations ended in frustration and disappointment on June 22, 1974.

The DRV Decision to Return the DIC's

The DRV decision to return the DIC's is probably not attributable to any single event during the course of the negotiations. A summary of events leading up to the repatriation gives a good indication of the factors which most probably influenced the DRV decision to return the DIC's.

From the very beginning of the negotiations, it appears the DRV sought to use the DIC's and MIA's as a

bargaining tool to gain political objectives. At first, the repatriation was offered in return for quick agreement on building graves, memorials and cemeteries in SVN. When this objective could not be accomplished, the DRV then used the issue to bargain for full release of civilian detainees. Although no concentrated effort was made, the DRV also sought promises of US reconstruction aid as a precondition for repatriation of the DIC's.

By October 1973, it should have appeared evident to the DRV that the USDEL was not going to engage in any discussion outside the provisions of Article 8(b). During the period October 1973 through February 1974, several other events occurred which might have made the DRV feel the DIC's were becoming a political liability rather than a bargaining tool.

The ambush in Gia Dinh Province certainly had to be embarrassing to both the DRV and the PRG. The USDEL used the occasion to initiate a small press campaign stressing the lack of cooperation on the part of the DRV in returning the DIC's and exchanging information concerning MIA's. It was right after the ambush that Dr. Kissinger and Le Duc Tho met in Paris. It would seem likely that the ambush did nothing to enhance Mr. Tho's position in Paris. The DRV had received several unfavorable press articles as a result of the ambush and visits by US POW/MIA organizations. The US Congress had established its own precondition for reconstruction aid

to North Vietnam. Finally, the DRV may have viewed the de facto cancellation of the liaison flight as yet another signal of US refusal to bargain for the DIC's.

It would appear then that the decision to return the DIC's was made for two basic reasons. First, to continue to hold the DIC's had begun to create unfavorable publicity for the DRV in the US press. The DRV may have felt that release of the DIC's would change this trend. Second, the DRV had been unsuccessful in achieving any of the apparent objectives established in return for the DIC's. The DRV may have felt it was time for a new approach. As evidenced by Colonel Tu's remarks to Colonel Tombaugh, the DRV probably felt that release of the DIC's might well provide the initiative for continued dialogue with the US in order to gain objectives they had been thus far unable to achieve.

The End of The Negotiations

The period from March through June 1974 was marked by ever-increasing accusations by all parties concerning cease-fire violations. The DRV/PRG hardened their position and more frequently demanded US withdrawal of "more than 20,000 soldiers, disguised as civilians", from South Vietnam. The plenary sessions rapidly turned into a propaganda forum for all three of the Vietnamese parties. One example is a statement issued by the PRG on March 30. The statement is lengthy, but is reproduced in its entirety to allow the reader to gain full appreciation of

the hostile tone that characterized the negotiations at this point in time:

The military delegation of the Provisional Revolutionary Government of the Republic of South Vietnam has many times affirmed the consistent stand of its government, that is, to always seriously and strictly implement the Paris Agreement on Vietnam and to solve the status of those persons dead and missing provided for by Article 8(b) of the Agreement.

For a year, the Provisional Revolutionary Government of the Republic of South Vietnam has unceasingly demonstrated its goodwill and presented many constructive proposals at the conference table, but none of these has ever been responded to. At the present time, peace has not been really restored, armed conflict still continues, and even more, the essential provisions of the agreement are being sabotaged by the US and RVN, causing the situation in Vietnam to become more tense and dangerous day by day and seriously hindering the implementation of Article 8(b) of the Paris Agreement reference our memoranda of 19 Apr 73 and No. 68/TLHQS4B of 19 Jan 1974 and the statements of the PRG/RSVN military delegation made at the FPJMT sessions of 13 Dec 73 and 39 Jan 74.

To date, far from dropping, violations of the Agreement have seriously increased with every passing day.

On the battlefield, the RVN, encouraged, aided and controlled by the US, has unceasingly conducted encroachment operations, destruction and fierce bombings against the areas under the control of the PRG/RSVN, annihilating many towns, villages and hamlets, killing thousands of people and causing death, destruction and constant instability to the lives of the people.

In an attempt to carry out the policy of pacification and relocation of the population, the encroaching troops have bulldozed or levelled thousands of graves of dead people and soldiers, together with thousands of hectares of crops, rice-fields, gardens and homes, especially in the Provinces of Quang Ngai and Binh Dinh (Central Trung Co).

In their zone of control, the RVN have unceasingly intensified their pacification program and police operations, strengthened their machinery of oppression, plundered hundreds of thousands of tons

of rice from the people, conducted terrorist reprisals, arresting imprisoning and killing tens of thousands of patriots who struggle for and demand implementation of the Agreement for peace, democracy, improvement of living conditions and national concord. According to statistics, still incomplete, from 28 Jan 73 to 15 Mar 74, the RVN committed over 344,000 violations, including over 39,500 encroachment operations, over 250,000 police and pacification operations, over 36,000 artillery shellings and over 17,000 bombings.

From 28 Jan 73 to 20 Feb 74, the RVN incarcerated and tortured over 40,000 persons and killed or wounded over 10,000 others. In Quang Ngai Province alone, during the period of 11 months from 28 Jan 73 to 28 Dec 73, they razed 85 hamlets, killed 1,400 people, reduced 10,000 homes to ashes, and devastated nearly 4,000 hectares of the people's rice-fields, gardens and 92 schools.

It must be clearly stated that with the aim of continuing the war, disregarding the Paris Agreement on Vietnam, the United States has left behind, and even increased, the number of military personnel disguised as civilians to 24,000, and at the same time, has established disguised military headquarters for the control of the RVN administration's machinery of war and oppression. The "Defense Attaché Office" (DAO), of the US Embassy in Saigon with its branches, the 4 US Consulates at the 4 RVNAF Military Region Headquarters are really the apparatus replacing the "Military Assistance Command, Vietnam", MACV. There still exists a "Tactical Operations Center" which is no different from the combat command which existed during the past period of US aggression. SAAFO, the "Special Attaché To The Ambassador On Field Operations", and R and R, "Resettlement and Reconstruction", now under the direct control of former Colonel Jacobson, are really the agencies which command the pacification program and the relocation of the people into strategic hamlets, formerly under the command of CORDS, "Civil Operations and Rural Development and Support" and WHAM, "Win The Hearts and Minds".

In an attempt to strengthen RVN forces for escalating sabotage of the ceasefire, the United States has feverishly given military aid and massively and illegally introduced nearly one million tons of weapons and war material into South Vietnam. Of late, they have blatantly and illegally brought in many of the new type F5E aircraft and war vessels, saying at random that "this is the replacement of damaged weapons on a one-for-one basis".

The above said acts have exposed the US role to be that of the protagonist who has directed and aided the RVN in continuing to prolong the war in South Vietnam.

At present, over 15,000 personnel belonging to the PRG/RSVN and over 200,000 civilians, consisting of PRG/RSVN personnel and those of nonaligned forces who were captured or arrested before 28 Jan 73, are still being detained and savagely maltreated in RVN prisons. Under pressure from the public at home and abroad, in February 1974, the RVN had to resume execution of the return plan (prisoner releases) which they themselves had suspended since July 1973. Although a very small number were returned as compared with the total number still imprisoned, the RVN have still not completed this phase of returns. They have swapped and returned persons who do not belong in the civilian category (RVN military personnel and officials convicted by the RVN itself), and after return, have redetained persons whom the RVN had agreed to return to their families in the RVN zone of control, done with the agreement of the two parties and witnessed by the ICCS Team, such as the cases of Student Huynh Tan Mam and Mr. Huynh Van Trong, etc.

In the past, the US directly captured or arrested, detained, maltreated and tortured military and civilian personnel belonging to the PRG/RSVN and civilian personnel belonging to other forces struggling for peace, independence, freedom and democracy in South Vietnam.

Presently, OPS (Office of Public Security) of USAID (United States Agency For International Development) is now continuing to "train, equip and provide cadre" for the RVN police; thousands of US advisors are still maintained for direction of the RVN police apparatus and intelligence. Hundreds of millions of dollars of US aid, together with much equipment and materiel illegally introduced into South Vietnam, are used to strengthen police forces, the machinery of oppression and prisons in South Vietnam.

Obviously, the United States cannot shirk its responsibility with regard to the fate of hundreds of thousands of captured civilian and military personnel still detained and maltreated in RVN prisons.

Paralleling the violations of the provisions concerning the ceasefire and return of the Vietnamese military and civilian personnel captured and detained, the US and RVN have seriously obstructed the FPJMT in the task of implementing the provisions of the Agreement concerning dead and missing persons, have not seriously discussed the content, modalities and pro-

cedures for implementation of Article 8(b), have rejected the just and reasonable proposals of the PRG/RSVN and DRV Delegations, have refused to discuss a solution for means of transportation as required by the activities of the PRG/RSVN Delegations and those of the four-party JMT, have taken advantage of the position of managing these facilities to suspend or cut down, at will, the liaison flights between our delegation and its government, and have been unwilling to ensure means of liaison between our delegation and the localities. On the contrary, the RVN and US have, on many occasions, abused these transportation means, and the markings of the Joint Military Commission in their dark and illegal activities.

All the situations mentioned above have deadlocked the implementation of Article 8(b).

The US and RVN must bear full responsibility for the serious situation mentioned above, arising from their schemes and acts of complete and systematic violation of the Paris Agreement on Vietnam.

The US military involvement and intervention in South Vietnam's internal affairs together with the RVN policy of dependence on the US are the profound origin and direct cause of this situation.

The unwavering position, affirmed many times by the PRG/RSVN military delegation, is to always respect, resolutely protect and fully and strictly implement the Agreement, while, at the same time, energetically demand that the US and RVN do the same.

The United States must completely end its military involvement, withdraw all its disguised military personnel from South Vietnam, stop its illegal military aid to the RVN, end its intervention in South Vietnam's internal affairs and cease to use the RVN administration as an instrument to sabotage the Agreement, continue the war, impose neocolonialism on South Vietnam and perpetuate the partition of Vietnam.

The RVN must end violations of the cease-fire, positively respond to the proposal put forth by the PRG/RSVN on 22 Mar 74, end immediately the shooting, strictly observe the cease-fire throughout South Vietnam and return all captured and detained Vietnamese civilian and military personnel within 3 months, no later than 30 Jun 74.

The US and RVN must seriously discuss the content,

modalities and procedures as a basis for implementation of Article 8(b), execute in full the privileges and immunities in accordance with Article 11 of the 13 Jun 73 Joint Communiqué, and ensure means of liaison for the PRG/RSVN Military Delegation with its government and the localities, thus creating favorable conditions for the implementation of Article 8(b).²⁷

On June 20, 1974, the final meeting of the FPJMT was held. Three hours were spent and agreement on the agenda for the day was never reached. The DRV and PRG warned that the US and RVN must accept full responsibility for "obstruction and permanent disintegration of the FPJMT". On June 22, the PRG delivered a statement to the USDEL:

By the Ministry for Foreign Affairs of the Provisional Revolutionary Government of the Republic of South Vietnam on the sabotage of negotiations by the US and Nguyen Van Thieu Administration in the Joint Military Organizations.

In the spirit of national reconciliation and concord, with the desire for the strict respect and serious implementation of the Paris Agreement on Vietnam, the Provisional Revolutionary Government of the Republic of South Vietnam has always exhibited its goodwill. That spirit has been indicated in the 6-point proposal made on March 22, 1974 by the Provisional Revolutionary Government and in the June 10, 1974 statement of the Ministry for Foreign Affairs of the Republic of South Vietnam.

By the resolute struggle of the Provisional Revolutionary Government of the Republic of South Vietnam and the Government of the Democratic Republic of Vietnam the sessions at chief level of the joint military bodies have been resumed since June 11, 1974. But from that time up to now, the US and Nguyen Van Thieu Administration have still remained unserious in negotiations, sabotaged the talks, continued to step up the war, committed numerous crimes against the South Vietnamese people. They have refused to discuss the problem of ensuring the full implementation of the privileges and immunities as stipulated in Articles 16, 17 of the protocol concerning the ceasefire in South Vietnam and the Joint Military Commissions and in paragraph 11 of the June 13, 1974

Joint Communiqué. Moreover, they have still adopted an impertinent and lofty attitude, brazenly distorting the Paris Agreement, making slanders against the RSVN Provisional Revolutionary Government and the DRV Government in a rude manner. The Nguyen Van Thieu Administration has stubbornly remained unwilling to attend the La Celle Saint Cloud Conference cancelled of its own accord the Saigon-Loc Ninh frequent and regular liaison flights. Meanwhile the Nguyen Van Thieu war-like and Fascist clique is effortfully terrorizing and suppressing all forces that do not see eye-to-eye with it, including various religious circles, and committing new crimes against the South Vietnamese people. Most seriously, they have brazenly encroached upon the territorial waters of the PRG of the RSVN, sent to bottom, in the area of Cua Viet, the LC.174 cargo ship of the DRV, which was on its mission of civil supply to the South Vietnamese people. In disregard of the Paris Agreement, they have still arrogantly considered that the territorial waters from south of the 17th parallel southward is under their control.

The above-mentioned acts of the Nguyen Van Thieu Administration are within the premeditated plan of which the US is the instigator and director. It is evident that the Nguyen Van Thieu Administration's being compelled to come back to the sessions of the joint military bodies is to cope with the condemnation of the public opinion in an attempt to cover up its obstinate position and its criminal acts of escalating the war. The RSVN Provisional Revolutionary Government strongly denounces and severely condemns the scheme and acts of sabotaging the Agreement, the volte-faced and arrogant attitude of the US and Nguyen Van Thieu Administration in negotiations. In such a situation that the US and Nguyen Van Thieu Administration hinder the work of the joint military bodies, feverishly step up the war, and at the same time take advantage of the PRG RSVN goodwill to deceive public opinion, it is completely useless to remain sitting with them at the negotiation forums. The RSVN Provisional Revolutionary Government decides to suspend sine die its participation in the sessions of the central two-party Joint Military Commission and those of the four-party Joint Military Team until the US and Nguyen Van Thieu Administration end all their acts of sabotaging the negotiations, undertake to ensure the realization of all privileges and immunities as provided for in Articles 16, 17 of the protocol concerning the JMC's and in paragraph 11 of the Joint Communiqué, show their serious and correct attitude in the negotiations of the joint military bodies as well as of the La Celle Saint Cloud Conference, positively

respond to the sensible and reasonable proposals of the PRG of the RSVN. Those are minimum, correct and very necessary demands to aim at ensuring rapid progress in negotiations in order to properly solve the internal affairs of South Vietnam, ensuring the serious implementation of the Paris Agreement on Vietnam.

If the US and the Nguyen Van Thieu Administration still remain unwilling to respond to the above said just demands, to fully meet their obligations and responsibilities stipulated by the Paris Agreement and the Joint Communique, still obdurately continue to intensify the war, sabotage the negotiation, they must bear full responsibility for all consequences arising from their acts. (emphasis mine)²⁹

The negotiations had ended.

CHAPTER 6

CONCLUSIONS

Negotiating Tactics and Strategy

The over-all strategy of the USDEL was established early in the negotiations by the AMEMB, Saigon. The strategy was to insist upon a return of all DIC's, an accounting of all MIA's and recovery of BNR's in that order.

The tactics used by the USDEL included the following:

1. The USDEL sought to establish close friendly relations with key members of the other delegations.
2. The USDEL would not engage in discussions outside of the provisions of Article 8(b). This tactic included a severely restrictive interpretation of Article 8(b) as evidenced by the US refusal to consider graves, memorials and cemeteries.
3. The USDEL chose to ignore, for the most part, the often repeated accusations and charges by the other side concerning ceasefire violations.
4. The USDEL attempted to create favorable conditions for the negotiations by providing the liaison flights and protecting the DRV/PRG from RVN harassment and threats to inspect DRV luggage and cargo shipped from Hanoi.

5. The USDEL would not engage in reciprocal concessions for the accomplishment of US objectives. This was particularly true in matters concerning action on the part of the RVN Government.

The strategy used by the DRVDEL appears to have been to gain political objectives favorable to both the DRV and the PRG in return for repatriation of the DIC's and release of information concerning MIA's.

The tactics used by the DRVDEL included the following:

1. The DRVDEL sought to deal only in terms of reciprocity. The few times the DRV chose to act unilaterally occurred only after it was apparent that the USDEL would not make the first concession. Then, the action on the part of the DRV was used as an initiative to gain expected concessions favorable to achieving their objectives. The best example of this tactic is the return of the DIC's after more than a year of negotiations.

2. The DRVDEL sought to produce issues that were of conflicting interests to the US and RVN delegations, thus creating a split between their opponents.

3. The DRVDEL used the tactic of delaying the negotiations, but not simply for the sake of delay. The tactic was used to take advantage of US impatience and only when the DRV could not accomplish their specific objectives. Examples of this tactic were refusing to agree to the proposed agenda, reading lengthy propaganda state-

ments, and frequent disruptive walkouts.

4. The DRVDEL based many of their arguments on an extremely broad interpretation of Article 8(b).

5. The DRVDEL attempted to use the "loaded agenda" and the "agreement in principle".

6. The DRVDEL maintained their basic negotiating position of psychological and political strength. They could not, and would not, be coerced into taking any action unfavorable to the accomplishment of their objectives.

A Comparison

In writing How Communists Negotiate, Gerald L. Steibel developed eight "Operational Tactics" which he suggested be used by US negotiators when dealing with Communist opponents in the future. Steibel's work was based on his research into methods used by Soviet, Chinese and North Korean negotiators. It would seem appropriate to test Steibel's tactics to see whether or not they were, or would have been, applicable in dealing with the DRV negotiators.

1. "Be most chary of the agreement in principle." This tactic was particularly operative to the USDEL when dealing with the DRV. The DRV used this approach on several occasions. When used by the DRV, the "agreement in principle" was easily identified and the USDEL was able to avoid the consequences.

2. "Stay clear of the stacked agenda." This tactic was one of the first lessons learned by the USDEL. The DRV

tried to use the "stacked agenda" the first meeting they hosted. As with the "agreement in principle" the "stacked agenda", after its initial use, was easily identified and avoided by the USDEL.

3. "Know how to interpret and deal with Communist rhetoric." The DRV used long and rhetorical statements frequently throughout the negotiations. The USDEL approach was to ignore the rhetoric and insist on negotiating issues within the scope of Article 8(b). In describing this tactic, Steibel says, "When the Communists have an important message to communicate, or a change to signal, they will do so in short, terse language." This statement proved valid when dealing with the DRV. When the DRV was ready to reach agreement or propose a significant change in their position, they did so in clear, concise language, usually in private session with the USDEL.

4. "Be prepared for, but not intimidated by, acrimony." The USDEL was never "intimidated" by the frequent accusations and charges issued by the DRV. Nonetheless, the US was often frustrated by the DRV when they chose to spend entire sessions accusing the US of numerous ceasefire violations and failure to implement the Paris Agreement.

5. "Know when to be patient, when to take action." In explaining this tactic, Steibel warns, "Make no requests unless we are prepared to make them feel our displeasure in a practical way in case the request is not

granted." Steibel's advice would seem to apply to the USDEL when dealing with the DRV. Unfortunately, "impatience" characterized the style of the USDEL throughout the negotiations.

6. "Hew to what is possible to obtain from the Communists." Once again, this tactic would seem most appropriate, but was not followed by the USDEL. As was the case concerning the signing of the safety certificate, the US made demands of the DRVDEL which simply could not be accepted.

7. "Do not act chummy with the adversary." This is the one tactic developed by Steibel which seemed clearly not applicable when dealing with the DRV negotiators. Almost without exception, the progress that was made in the FPJMT resulted from private sessions between the US and DRV which were possible because of the close individual relationships developed between the two parties.

8. "Coordinate all US activities, private and government." For the most part, the USDEL followed this tactic fairly well. A broader interpretation of the tactic would also include coordination between the US and RVN delegations. The USDEL did not do well in this area, particularly in the early stages of the negotiations concerning procedure for the liaison flight.

Results of the Negotiations

The evidence presented thus far gives a reasonably

valid indication of the results achieved by both the US and the DRV delegations in the course of the negotiations. In terms of the prescribed objectives given to the USDEL, the only tangible accomplishment was return of the 23 DIC's from North Vietnam.

In terms of the apparent objectives put forth by the DRV, they were relatively unsuccessful. They did not achieve an agreement to construct graves, memorials and cemeteries which would have allowed much more freedom of movement for PRG cadre to travel through RVN controlled areas. They did not gain a quick release of the civilian detainees. They did not receive reconstruction aid from the United States Government. And, at least on the surface, they were unable to create an open split between the US and RVN delegations.

It would, however, be naive to view the FPJMT negotiations as a total failure for the DRV. To do so would completely overlook the purposefulness with which the DRV and other Communist negotiators have historically entered the negotiating process. Had there been no purpose, or measurable success, it is doubtful the DRV would have continued to participate in the negotiations as long as they did. How much psychological advantage did the DRV gain over the RVN Delegation when RVN was forced to back down on matters concerning the liaison flight? Did the DRV use the negotiations to buy time to strengthen their military posture? How successful were their propaganda statements,

released through the forum of the FPJMT, in influencing world opinion? Did continuation of the negotiations offer flexibility and yet another alternative for the DRV to accomplish their ultimate goal in South Vietnam? The answers to these questions are not in the scope of this research. To measure the true success or failure of the DRV Delegation to the FPJMT, these and other questions will someday have to be answered.

Strengths and Weaknesses of the Two Delegations

It would appear that the DRV Delegation maintained the stronger negotiating position throughout most of the negotiations. Much of this strength, however, was derived from the circumstances surrounding the negotiations rather than the tactics and strategy employed. For instance, of prime significance was the fact that the DRV was in possession and control of the MIA information and the DIC's which the USDEL sought to retrieve. The USDEL on the other hand, possessed little, within its specific authority, to give to the DRV in return. The one exception to this circumstance was control of the US aircraft used for the liaison flights. In one instance, the US took advantage of their strength in dictating procedure for use of the aircraft. In the other case, the "bomb" incident, the US strength was undermined by the DRV's skillful maneuvering of the USDEL into the position of trying to appease both adversary and ally in order to insure the continuance of

the negotiations.

In terms of negotiating tactics, the primary weakness of the USDEL's position appears to be the inflexibility it possessed in dealing with issues outside Article 8(b) and specifically those issues concerning action on the part of the RVN Government. Had the USDEL had the flexibility to deal with issues such as graves, memorials and cemeteries, the civilian detainee exchange and PRG DIC's captured by US forces, the small success achieved might have been greater.

Of particular strength to the DRV Delegation was their ability to delay the negotiations almost at will. Time was in favor of the other side.

On the other hand, the USDEL, whether perceived or real, felt the need to accomplish the mission as soon as possible. Delays, as perceived by the US, were not only frustrating, but viewed as an indication of lack of progress. For this reason, every effort had to be made to overcome the delay, even if it meant loss of credibility or weakening of the US position.

The most significant weakness of the USDEL, however, was not one of tactics and strategy, but rather a matter of US Government priorities. Which was more important, return of the DIC's and a full accounting of the MIA's, or continued US support of the RVN Government? The answer, of course, was continued US support. For the USDEL to accomplish its mission, concessions would have had to be made which would have increased the DRV's chances of a victory in

South Vietnam. The US Government was not willing to make those concessions. For this reason, more than any other, the USDEL was unable to fully accomplish its mission in the political-military arena of the negotiating table.

ENDNOTES

Chapter 1

1. The only prisoners reportedly still held were two Royal Thai Government soldiers named Cham and Harnavee (affectionately referred to by the USDEL as Chip and Dale) whom US returnees claimed the DRV refused to release. The FPJMT attempted to gain release of the two on several occasions. The DRV maintained throughout the negotiations that they held no more prisoners.

2. "Restoring Peace in Viet-Nam": Basic documents on ending the war and restoring peace in Viet-Nam, with a commentary by Dr. Henry Kissinger, p. 50.

3. As discussed in Chapter 5, 23 DIC's were returned from NVN in March 1974. The 47 other DIC's held by the PRG were never returned.

4. USDEL, FPJMT, Yearbook (April, 1974), p. 18.

Chapter 2

1. Henry A. Kissinger, American Foreign Policy: Three Essays (New York: W. W. Norton and Company, Inc., 1969), p. 101.

2. USDEL, FPJMT, Working Paper, Document No. 8, Saigon, RVN, pp. 4-5.

3. Ibid., pp. 5-8.

4. Gerald L. Steibel, How Can We Negotiate With The Communists? (New York: National Strategic Information Center, 1972), p. 27.

5. Ibid.

6. Admiral C. Turner Joy, How Communists Negotiate (New York: The MacMillan Co., 1955), p. 30.

7. U.S. Congress, Senate, Subcommittee on National Security and International Operations, Peking's Approach to Negotiations-Selected Writings, 91st Congress, 1st Session, March 10, 1969 (Washington: Government Printing Office, 1969), pp. 16-17.

8. David Landau, Kissinger: The Uses of Power (Boston: Houghton Mifflin Company, 1972), p. 176.

9. On June 10, 1969, the NLF changed their name and announced the establishment of the Provisional Revolutionary Government of the Republic of South Vietnam (PRG/RSVN) in order to add credibility to their claim as the legitimate government of the South Vietnamese people.

10. Kissinger, op. cit., p. 111.

11. Ibid., p. 118.

12. Landau, op. cit., p. 167.

13. Kissinger, op. cit., pp. 113-114.

14. Ibid., p. 121.

15. Ibid., p. 132.

16. "Restoring Peace in Viet-Nam": Basic documents on ending the war and restoring peace in Viet-Nam, with a commentary by Dr. Henry Kissinger, p. 6.

17. Canada withdrew from the ICCS 120 days after the ceasefire. At the time of their departure the senior Canadian delegate stated that the ICCS was observing a war, not a ceasefire. Iran replaced Canada as the Fourth member on the Commission in August, 1973.

18. "Restoring Peace in Viet-Nam", op. cit. p. 16.

19. Ibid., p. 98.

20. The U.S. had foreseen the problem of base dismantlement some years earlier. As a result, all U.S. installations in South Vietnam were officially turned over to the Saigon government prior to the ceasefire. The South Vietnamese then "hand-receipted" the property back to the U.S. When the issue was raised at the FPJMC talks in Saigon, the U.S. replied that it no longer owned any bases which to dismantle. The DRV did not pursue the issue, but made public note of the U.S. violation of the "spirit" and "intent" of the Agreement, a charge which they often repeated in the FPJMT.

Chapter 3

1. The US had proposed that the aircraft remain overnight in Hanoi to fulfill crew rest requirements before returning to Saigon and on to Clark AFB in the Philippines. The DRV never stated the reason why they did not want the aircraft to remain overnight. The US did not press the issue and the problem was solved by having two crews aboard

each flight.

2. USDEL, FPJMT, Negotiations Chronology, Saigon, RVN, July 23, 1974, p. 2.

3. Ibid., pp. 2-5.

4. Ibid., p. 10.

5. Joy, op. cit., pp. 18-19.

6. USDEL, FPJMT, Working Paper, Subject: Comments on DRV Draft Minute of Agreement, Saigon, RVN, April 24, 1973.

7. USDEL Negotiations Chronology, op. cit., p. 7.

8. USDEL FPJMT, Memorandum for Secretaries of the Other Delegations, Subject: Draft Minute of Agreement, Saigon, RVN, July 27, 1973.

9. USDEL, FPJMT, Working Paper, Subject: Agreed and Disagreed Points, Saigon, RVN, September 12, 1973.

10. Ibid.

11. Ibid.

12. Ibid.

13. USDEL, FPJMT, Translation of LTC Son's remarks at FPJMT Plenary Session, Saigon, RVN, September 11, 1973.

Chapter 4

1. USDEL, FPJMT, Memorandum for Chief of the DRV Delegation, Subject: Saigon/Hanoi Liaison Flight, Saigon, RVN, March 30, 1973.

2. USDEL, FPJMT, Memorandum for Secretaries of the Other Delegations, Subject: Saigon/Hanoi Liaison Flight, Saigon, RVN, May 9, 1973.

3. Commander, US Support Activities Group, Message 091115Z, Subject: Hazardous Materials on FPJMT Flight, NKP, Thailand, June 9, 1973.

4. USDEL, FPJMT, Message 1631800, Subject: Hazardous Material on FPJMT Flight, Saigon, RVN, June 13, 1973.

5. Paris Joint Communique, Paris, France, June 13,

1973, p. 5.

Chapter 5

1. USDEL, FPJMT, White Paper (never released),
One Year of the FPJMT-A Report to the American People,
Saigon, RVN, p. 17.
2. USDEL Negotiations Chronology, op. cit., p. 5.
3. USDEL, FPJMT, Memorandum for Mr. Al Francis,
Subject: USDEL, FPJMT Position Paper on 4 Oct DRV/PRC
Initiatives, Saigon, RVN, October 5, 1973, p. 1.
4. Ibid.
5. Ibid., p. 2.
6. Ibid.
7. Statement by Doctor Roger E. Shields, Deputy
Assistant Secretary of Defense for International Economic
Affairs, before the Senate Foreign Relations Committee,
January 28, 1974.
8. Ibid.
9. USDEL Negotiations Chronology, op. cit., p. 17.
10. Based on personal correspondence between
Colonel William W. Tombaugh, Chief of the US Delegation,
FPJMT from June 73 to August 74, and the author.
11. USDEL Negotiations Chronology, op. cit., p. 44.
12. USDEL, FPJMT, Memorandum for Mr. Al Francis,
Subject: FPJMT Negotiations, Saigon, RVN, October 15,
1973, p. 3.
13. Ibid., p. 4.
14. Ibid., p. 4.
15. Ibid., p. 5.
16. Ibid., p. 6.
17. USDEL Negotiations Chronology, op. cit., p. 48.
18. USDEL Memorandum for Mr. Al Francis, Subject:
FPJMT Negotiations, op. cit., p. 6.

19. AMEMB, Memorandum to Colonel Tombaugh, Subject: FPJMT Negotiations, Saigon, RVN, October 25, 1973.

20. USDEL, FPJMT, History, 31 March through 31 December 1973, Saigon, RVN, June 28, 1974, p. 74.

21. Carlyle A. Thayer, "The Democratic Republic of Vietnam in 1974: The Politics of Transition", Asian Survey, Volume XV, Number 1 (January, 1975), p. 63.

22. Ibid., p. 67.

23. Correspondence with Colonel Tombaugh, loc. cit.

24. Ibid.

25. USDEL Negotiations Chronology, op. cit., p. 74.

26. Correspondence with Colonel Tombaugh, loc. cit.

27. USDEL, FPJMT, Message 030200Z, Subject: PRG/RSVN Response to Recent US Initiatives, Saigon, RVN, April 3, 1974.

28. USDEL Negotiations Chronology, op. cit., p. 109.

29. USDEL, FPJMT, Message 240841Z, Subject: PRG/DRV Boycott of FPJMT Plenary Sessions, Saigon, RVN, June 24, 1974.

APPENDIXES

APPENDIX A

FINAL MESSAGE SENT BY USDEL, FPJMC

SUBJ: CHIEF, USDEL, FPJMC, INTERIM AFTER-ACTION REPORT

(28 JAN - 29 MAR 73)

1. THE PURPOSE OF THIS MESSAGE IS TO PROVIDE A SUMMARY OF THE MORE SIGNIFICANT ISSUES CONFRONTED BY THE USDEL, (28 JAN - 29 MAR 73). A FINAL AFTER-ACTION REPORT WILL BE RENDERED IN WASHINGTON.

2. THE ESTABLISHMENT OF THE FPJMC.

A. THE INITIAL TASK OF THE USDEL WAS TO ESTABLISH AN EFFECTIVE VEHICLE FOR COMMUNICATION BETWEEN PARTIES AND FOR NEGOTIATING AND SETTLING ALL MATTERS CONCERNING THE IMPLEMENTATION OF PARTICULAR PROVISIONS OF THE AGREEMENT AND PROTOCOLS. THE CENTRAL FPJMC PROVED TO BE AN EFFECTIVE ORGANIZATION, ALTHOUGH NOT SUCCESSFUL IN ALL ITS TASKS. DUE TO THE FAILURE OF THE PRG AND DRV TO DEPLOY, THE FIELD STRUCTURE OF THE FPJMC NEVER DEVELOPED, AND THE ACTIVITIES OF THE CENTRAL FPJMC DOMINATED THE OPERATIONS OF THE FPJMC.

B. WHILE THE U.S. AND RVN DEPLOYED TO ALL FPJMC SITES, THE DRV AND PRG DID NOT. THE PRG INITIALLY USED THE ISSUES OF CEASE-FIRE AND IMMEDIATE POST-CEASE-FIRE PERIODS. THE JOINT APPEAL TO THE HIGH COMMANDS URGING THEM TO ISSUE ORDERS TO HALT THE FIGHTING (17 FEBRUARY) WAS FOLLOWED BY A SIGNIFICANT DECREASE IN GROUND CONTACTS, AND SOME DE-

CREASE IN ATTACKS BY FIRE. THE FPJMC WAS UNABLE TO AGREE ON A SECOND JOINT APPEAL, CALLING FOR THE MEETING OF OPPOSING COMMANDERS. DESPITE US URGINGS AT ALL LEVELS, VIOLATIONS CONTINUE, AS THE VIETNAMESE PARTIES REMAIN UNWILLING TO CEASE COMPLETELY HOSTILE MILITARY OPERATIONS.

B. DETERRING AND REPORTING CEASE-FIRE VIOLATIONS, THROUGH ITS FIELD ORGANIZATION, WAS TO BE A MAJOR TASK FOR THE FPJMC. THE FAILURE OF THE PRG AND DRV TO DEPLOY FULLY AND THEIR FAILURE TO ALLOW COMPLETE INVESTIGATIONS OF ALLEGED CEASE-FIRE VIOLATIONS (CH-47, SA HUYNH) UNDERMINED THE ACCOMPLISHMENT OF THIS TASK.

4. RETURN OF PRISONERS OF WAR.

A. ALL U. S. AND THIRD COUNTRY PRISONERS OF WAR ON THE TWO PARIS LISTS, AS SUPPLEMENTED, HAVE BEEN RELEASED.

(1) AN INITIAL NEGOTIATING ISSUE WAS TO ENSURE THAT THE INADEQUATE FACILITIES AND THE LACK OF SECURITY, IMMUNITIES AND PRIVILEGES AS THE RATIONALE FOR NOT DEPLOYING. WHEN THESE ISSUES WERE RESOLVED, THE PRG STILL DID NOT DEPLOY, IN SOME CASES CLAIMING THE SITES WERE IMPROPERLY LOCATED. AT X+60 THE PRG HAD DEPLOYED FULLY TO ONLY ONE REGION AND SENT LIAISON PERSONNEL TO FOUR OTHER REGIONS. THE DRV ORIGINALLY DEPLOYED TO ALL SEVEN REGIONAL HEADQUARTERS AND FIVE TEAM SITES. HOWEVER, ALLEGING A LACK OF SECURITY, THE DRV WITHDREW FROM TWO REGIONS AND THE TEAM SITES IN EARLY MARCH.

C. A COMMUNICATIONS NETWORK, LIVING AND OPERATING FACILITIES, AND LOGISTICAL SUPPORT WERE ESTABLISHED FOR

ALL SITES.

THIS WAS IN LARGE MEASURE A U.S. EFFORT, WITH MINIMAL PARTICIPATION BY RVN.

3. ESTABLISHMENT OF AN EFFECTIVE CEASE-FIRE.

A. A TOTAL CEASE-FIRE NEVER TOOK EFFECT, ALTHOUGH THE INTENSITY OF THE FIGHTING IN MARCH WAS WELL BELOW THAT OF THE PRERELEASE OF U.S. PW'S WAS LINKED ONLY TO THE WITHDRAWAL OF U.S. AND FWMA FORCES. WHILE THE DRV AND PRG ACKNOWLEDGED THIS LINKAGE VERBALLY, THEY ATTEMPTED TO RELATE THESE RELEASES WITH THE RELEASES OF PRG PW'S AND VN CIVILIANS. THE U.S. CONSISTENTLY MAINTAINED ITS POSITION, SUSPENDING PHASE III AND DELAYING PHASE IV WITHDRAWALS TO ENSURE THE CLARITY OF THAT POSITION.

(2) ON 22 MARCH, WHEN IT BECAME CLEAR THAT THE UNDERSTANDING BETWEEN THE U.S. AND THE DRV REGARDING THE U.S. PW'S HELD IN LAOS WAS BEING IGNORED, THE U.S. INFORMED THE DRV THAT THERE WOULD BE NO FURTHER TROOP WITHDRAWALS UNTIL FIRM INFORMATION ON DATE, TIME, AND PLACE OF RELEASE WAS FURNISHED AND THE FIRST GROUP OF PW'S WAS PHYSICALLY TRANSFERRED TO U.S. CUSTODY. THE DRV MAINTAINED THAT THE RETURN OF U.S. PW'S IN LAOS WAS A MATTER OF LAOTIAN SOVEREIGNTY AND NOT LINKED TO U.S. TROOP WITHDRAWALS. ON 26 MARCH, THE DRV INFORMED THE USDEL THAT NEGOTIATION WITH THE PATHET LAO HAD RESULTED IN A DECISION TO RELEASE THE U.S. PW'S ON 28 MARCH AT HANOI. PHASE IV OF THE U.S. TROOP WITHDRAWAL BEGAN ON 27 MARCH, AFTER THE RELEASE OF THE PRG HELD PW'S IN HANOI, AND ENDED ON 29 MARCH, AFTER

THE RELEASE OF THE LAST OF THE DRV HELD PW'S.

B. THE ISSUE OF U.S. PW'S WHOSE NAMES DID NOT APPEAR ON THE PARIS LISTS AND WHO WERE NOT RELEASED WAS RAISED INFORMALLY WITH THE DRV AND PRG WITHOUT RESULTS.

C. ALTHOUGH PRIMARILY CONCERNED WITH CAPTURED U.S. PERSONNEL AND FOREIGN NATIONALS, THE USDEL BECAME INVOLVED IN THE NEGOTIATIONS OF SCHEDULES AND THE TRANSPORTATION OF THE PRG AND RVN CAPTURED MILITARY PERSONNEL. ALL PRG AND RVN PW'S ON THE PARIS LISTS HAVE EITHER BEEN EXCHANGED OR HAVE REFUSED REPATRIATION.

5. WITHDRAWAL OF U.S. AND FWMA FORCES.

A. AS OF 29 MARCH, THE ONLY U.S. FORCES IN RVN WERE THE USDEL, FPJMC, THE DAO CONTINGENT, AND THE MARINE EM-BASSY GUARD.

B. THE RESOLUTION OF THE FPJMC ROLE IN TROOP WITHDRAWALS, BASE DISMANTLEMENT, AND REDEPLOYMENT OF WAR MATERIEL WAS EFFECTIVELY ALONG THE LINES OF U.S. POSITIONS. ALTHOUGH THE DRV ARGUED THAT THE FPJMC SHOULD CONTROL AND SUPERVISE THE WITHDRAWAL, THE ACTUAL FPJMC ROLE WAS TO OBSERVE THE WITHDRAWALS WITHOUT BECOMING INVOLVED WITH PLANS OF AND EXECUTION BY MACV/USARV. ALTHOUGH DIS-AGREEMENT REMAINS REGARDING BASE DISMANTLEMENT AND REDEPLOYMENT OF WAR MATERIEL, THE U.S. POSITION THAT THE TRANSFER OF TITLE PRIOR TO THE SIGNING OF THE AGREEMENT EF-FECTIVELY TRANSFERRED OWNERSHIP WAS NEVER SERIOUSLY CHAL-LENGED.

6. ESTABLISHMENT OF A TWO-PARTY JMC.

A. THE AGREEMENT REQUIRES THE TWO SOUTH VIETNAMESE PARTIES TO FORM A TWO-PARTY JMC. A PROVISIONAL TPJMC WAS TO REACH AGREEMENT ON THE ORGANIZATION AND OPERATION OF THE TPJMC AND TO ASSUME THE TASKS OF THE TPJMC UNTIL THE LATTER WAS OPERATIONAL.

B. THE PROVISIONAL TPJMC WAS SLOW TO TAKE FORM AND MANY OF ITS DIFFICULTIES WERE RELATED TO THE RELUCTANCE OF THE PROVISIONAL TPJMC TO CARRY OUT ITS TASKS WHILE THE FPJMC WAS IN BEING.

C. ON 29 MARCH THE TPJMC HELD ITS FIRST CHIEFS OF DELEGATION MEETING. LTG TRAN VAN TRA REPRESENTED THE PRG AND LTG PHAM QUOC THUAN, THE RVN. SUBCOMMISSIONS ON DEPLOYMENT AND PROCEDURES ARE TO BE FORMED; THE TOTAL STRENGTH OF EACH PARTY'S DELEGATION WILL BE BETWEEN 1200 AND 1500 PERSONNEL; AND THE SUBCOMMISSION ON ORGANIZATION IS TO CONTINUE TO STUDY THE ORGANIZATION OF THE REGIONAL TPJMC'S AND THE JOINT TEAMS.

D. THE RVN HAS THE CAPABILITY TO SUPPORT THE TPJMC LOGISTICALLY, AS IT TAKES OVER THE FPJMC ARRANGEMENTS.

E. THE TWO PARTIES HAVE RELATEDLY COME TO APPRECIATE THE ICCS IN THEIR ACTIVITIES, WHILE THE ICCS HAS CONCENTRATED ON ITS OWN PROBLEMS AND ITS RELATIONSHIP WITH THE FPJMC. WITHIN THE LAST WEEKS OF THE FPJMC AND IN RECOGNITION OF THE IMMINENT DEMISE OF THAT BODY, THE HUNGARIAN AND POLISH DELEGATIONS HAVE DEVELOPED REGULAR CONTACTS WITH THE PRG, WHILE THE CANADIANS AND THE INDONESIANS HAVE DEVELOPED SIMILAR CONTACTS WITH THE RVN.

F. RELATED TO THE VIABILITY OF THE TPJMC IS THE RVN UNWILLINGNESS TO MAKE CONCESSIONS ON MATTERS THE PRG BELIEVES WERE GRANTED BY THE AGREEMENT AND PROTOCOLS. NEVERTHELESS, THE TWO PARTIES BELIEVE THAT MORE PROGRESS WILL BE ACHIEVED IN THE TPJMC THAN IN THE FPJMC BECAUSE OF ITS SIMPLE STRUCTURE. MORE IMPORTANTLY, THE TWO PARTIES SEEM TO BE ABLE TO COMMUNICATE AND WORK WITH EACH OTHER.

7. RESOLUTION OF THE STATUS OF U.S. MIA AND KIA/BNR.

A. THE FPJMC APPROVED ON 28 MARCH THE ESTABLISHMENT OF A FPJMT ON THE RESOLUTION OF MIA AND RECOVERY OF REMAINS. THE COMPOSITION AND PROCEDURES ARE STILL BEING NEGOTIATED. U.S. REPRESENTATIVES HAVE PROPOSED 3 APRIL FOR THE FIRST MEETING.

B. THE U.S. ELEMENT OF THE FPJMT WILL BE UNDER THE OPERATIONAL CONTROL OF CINCPAC, AND ADMINISTRATIVELY SUPPORTED BY DAD. THE US ELM WILL ACT AS AN INTERFACE BETWEEN THE JCRC AND THE FPJMT. GUIDANCE TO THE FPJMT WILL COME THRU STATE CHANNELS AS STATE/DEFENSE MESSAGES.

8. PHASE OUT OF THE FPJMC.

THE USDEL WILL REDEPLOY ON 30 AND 31 MARCH, WITH THE FIELD ELEMENTS STAGING THROUGH SAIGON. THE DRV DELEGATION BEGAN ITS REDEPLOYMENT EARLY USING U.S. AIRCRAFT SUPPORTING HOMECOMING OPERATIONS. REDEPLOYMENT OF THE REMAINING DRV PERSONNEL WILL OCCUR ON 30 AND 31 MARCH. THE PRG DELEGATION WILL RETURN ITS FIELD ELEMENTS TO SAIGON FOR REORGANIZATION PRIOR TO REDEPLOYMENT UNDER THE TPJMC.

9. EVALUATION.

WITH THE EXCEPTION OF A FULLY EFFECTIVE CEASE-FIRE, THE USDEL ACCOMPLISHED ALL ITS MAJOR TASKS AS OF X+60. THE PW RELEASES ARE COMPLETED; THE US/FWMAF REDEPLOYED WITHOUT INCIDENT; AND THE FPJMT TO RESOLVE THE STATUS OF MIA AND KIA/BNR HAS BEEN ORGANIZED. AN EFFECTIVE FPJMC WAS DEVELOPED, ALTHOUGH IT NEVER FUNCTIONED AT MOST OF ITS FIELD SITES. THE FOUNDATION FOR THE TPJMC HAS BEEN LAID.

10. THIS IS THE FINAL MESSAGE OF THE US DEL, FPJMC.

APPENDIX B

THE "FINAL ACT" OF THE INTERNATIONAL CONFERENCE ON VIETNAM

The Government of the United States of America,
The Government of the French Republic,
The Provisional Revolutionary Government of the
Republic of South Vietnam,
The Government of the Hungarian People's Republic,
The Government of the Republic of Indonesia,
The Government of the Polish People's Republic,
The Government of the Democratic Republic of Vietnam,
The Government of the United Kingdom of Great Britain
and Northern Ireland,
The Government of the Republic of Vietnam,
The Government of the Union of Soviet Socialist Repub-
lics,
The Government of Canada, and
The Government of the People's Republic of China,
In the presence of the Secretary-General of the United
Nations,
With a view to acknowledging the signed agreements,
guaranteeing the ending of the war, the maintenance of peace
in Vietnam, the respect of the Vietnamese people's funda-
mental national rights, and the South Vietnamese people's
right to self-determination, and contributing to and
guaranteeing peace in Indochina,
Have agreed on the following provisions, and under-
take to respect and implement them,

ARTICLE 1

The parties to this Act solemnly acknowledge, express their approval of, and support the Paris Agreement on Ending the War and Restoring Peace in Vietnam signed in Paris on January 27, 1973, and the four Protocols to the Agreement signed on the same date (hereinafter referred to respectively as the Agreement and the Protocols).

ARTICLE 2

The Agreement responds to the aspirations and fundamental national rights of the Vietnamese people, i.e., the independence, sovereignty, unity, and territorial integrity of Vietnam, to the right of the South Vietnamese people to self-determination, and to the earnest desire for peace shared by all countries in the world. The Agreement constitutes a major contribution to peace, self-determination, national independence, and the improvement of relations among countries. The Agreement and the Protocols should be strictly respected and scrupulously implemented.

ARTICLE 3

The parties to this Act solemnly acknowledge the commitments by the parties to the Agreement and the Protocols to strictly respect and scrupulously implement the Agreement and the Protocols.

ARTICLE 4

The parties to this Act solemnly recognize and strictly respect the fundamental national rights of the Vietnamese people, i.e., the independence, sovereignty, unity, and territorial integrity of Vietnam, as well as the right of the South Vietnamese people to self-determination. The parties to this Act shall strictly respect the Agreement and the Protocols by refraining from any action at variance with their provisions.

ARTICLE 5

For the sake of a durable peace in Vietnam, the parties to this Act call on all countries to strictly respect the fundamental national rights of the Vietnamese people, i.e., the independence, sovereignty, unity, and territorial integrity of Vietnam and the right of the South Vietnamese people to self-determination and to strictly respect the Agreement and the Protocols by refraining from any action at variance with their provisions.

ARTICLE 6

A) The four parties to the Agreement or the two South Vietnamese parties may, either individually or through joint action, inform the other parties to this Act about the implementation of the Agreement and the Protocols. Since the reports and views submitted by the International Commission of Control and Supervision concerning the control and supervision of the implementation of those provisions of the Agreement and the Protocols which are within the tasks of the Commission will be sent to either the four parties signatory to the Agreement or to the two South Vietnamese parties, those parties shall be responsible, either individually or through joint action, for forwarding them promptly to the other parties to this Act.

B) The four parties to the Agreement or the two South Vietnamese parties shall also, either individually or through joint action, forward this information and these reports and views to the other participant in the International Conference on Vietnam for his information.

ARTICLE 7

A) In the event of a violation of the Agreement or the Protocols which threatens the peace, the independence, sovereignty, unity, or territorial integrity of Vietnam, or the right of the South Vietnamese people to self-determination, the parties signatory to the Agreement and the Protocols shall, either individually or jointly, consult with the other parties to this Act with a view to determining necessary remedial measures.

B) The International Conference on Vietnam shall be reconvened upon a joint request by the Government of the United States of America and the Government of the Democratic Republic of Vietnam on behalf of the the parties signatory to the Agreement or upon a request by six or more of the parties to this Act.

ARTICLE 8

With a view to contributing to and guaranteeing peace in Indochina, the parties to this Act acknowledge the commitment of the parties to the Agreement to respect the independence, sovereignty, unity, territorial integrity, and neutrality of Cambodia and Laos as stipulated in the Agreement, agree also to respect them and to refrain from any action at variance with them, and call on other countries to do the same.

ARTICLE 9

This Act shall enter into force upon signature by plenipotentiary representatives of all twelve parties and shall be strictly implemented by all the parties. Signature of this Act does not constitute recognition of any party in any case in which it has not previously been accorded.

Done in twelve copies in Paris this Second Day of March, One Thousand Nine Hundred and Seventy-Three, in English, French, Russian, Vietnamese, and Chinese. All texts are equally authentic.

For the Government of the United States of America:
the Secretary of State: William P. Rogers.

For the Government of the French Republic:
the Minister for Foreign Affairs: Maurice Schumann.

For the Provisional Revolutionary Government of the Republic of South Vietnam: the Minister for Foreign Affairs: Nguyen Thi Binh.

For the Government of the Hungarian People's Republic:
the Minister for Foreign Affairs: Janos Peter.

For the Government of the Republic of Indonesia:
the Minister for Foreign Affairs: Adam Malik.

For the Government of the Polish People's Republic:
the Minister for Foreign Affairs: Stefan Olszowski.

For the Government of the Democratic Republic of Vietnam:
the Minister for Foreign Affairs: Nguyen Duy Trinh.

For the Government of the United Kingdom of Great Britain and Northern Ireland: the Secretary of State for Foreign and Commonwealth Affairs: Alec Douglas-Home.

For the Government of the Republic of Vietnam:
the Minister for Foreign Affairs: Tran Van Lam.

For the Government of the Union of Soviet Socialist Republics: the Minister for Foreign Affairs: Andrei A. Gromyko.

For the Government of Canada:
the Secretary of State for External Affairs: Mitchell Sharp.

For the Government of the People's Republic of China:
the Minister for Foreign Affairs: Chi Peng-Fei.

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